

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.516 of 2011

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 22-11-2010 passed in O.P.No.449 of 2006 by the M.A.C.T.-cum- II Additional District Judge, Nizamabhad (for short, the Tribunal).

2. Brief facts of the case are that on 26-05-2003 at about 12.40pm, while the deceased – Sopan was traveling in a lorry bearing No.AP-16-W-2147, the driver of the said lorry driven it in a rash and negligent manner at high speed and dashed against a tractor and trailer bearing No.AP-25-T-2623 and AP 25-E-5783, and due to which, the deceased was sustained injuries and multiple fractures and while taking treatment for a long period of 1 ½ year, he died. Hence, the claimants, who are the parents of the deceased, filed the claim petition claiming compensation of Rs.5.00 lakhs against the respondent Nos.1 and 2-who are the owner and insurer of the crime vehicle by contending that the deceased was a labour and earning Rs.5,000/- per month.

3. In the claim petition, the appellant-insurer filed its counter denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

4. After considering the oral and documentary evidence on record, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving on the part of the driver of the crime vehicle only. So far as granting of compensation is concerned, the Tribunal granted an amount of Rs.4,41,000/- i.e. Rs.4,32,000/- towards loss of dependency; Rs.2,000/- towards funeral; Rs.5,000/- towards loss of consortium and Rs.2,000/- towards loss of estate. Accordingly, it partly allowed the claim petition granting total compensation of Rs.4,41,000/- with interest at 7.5% per annum through out.

5. Aggrieved by the said compensation, the appellant/insurer filed the present appeal, seeking for dismissal of the appeal.

6. Heard the learned Standing Counsel for the appellant-insurer and the learned counsel for the respondents-claimants.

7. Sri A.Rama Krishna Reddy, learned Standing Counsel for the appellant-insurer, contends that the Tribunal erred in awarding compensation of Rs.4,32,000/- towards loss of dependency by deducting $\frac{1}{3}^{\text{rd}}$ personal expenses instead of $\frac{1}{2}$ of the income since the deceased was unmarried. Hence, he prayed to reduce the compensation awarded by the Tribunal.

8. Learned counsel for the respondents-claimants contends that it is a case of death and at the time of accident, the deceased was

aged about 20 years and earning Rs.5,000/- per month by working as a labour. He further contends that the award passed by the Tribunal is well considered and cannot be interfered with and he supported the order of the Tribunal.

9. As seen from the order of the Tribunal, the Tribunal has taken monthly income of the claimant @ Rs.3,000/- per month. Admittedly, there is no dispute with regard to the deceased was working as a labour and earning some income. Further, as contended by the learned counsel for the appellant-insurer, the Tribunal wrongly deducted 1/3rd as the personal expenses from the income of the deceased and proceeded with the same for calculation, which is incorrect in my view, since the deceased was the unmarried, the personal deduction should be half of the income. Hence, the compensation granted under the head of 'loss of dependency' is to be re-determined. If so, the monthly income of the deceased comes to Rs.1500/- per month. Then the annual income comes to Rs.18,000/- and accordingly, the loss of dependency comes to Rs.3,24,000/- (18000 x 18).

10. Except the above modification, the compensation awarded by the Tribunal under other heads shall remain unchanged. Therefore, the claimants are entitled to be granted for total compensation of Rs.3,33,000/- (3,24,000/- + 2000 + 5000 + 2000).

11. In the result, the appeal is allowed in part and the compensation awarded by the Tribunal is reduced from Rs.4,41,000/- to Rs.3,33,000/- (Rupees Three Lakhs and Thirty Three Thousand only). No costs.

12. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE T.AMARNATH GOUD

Date: 19.08.2019
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