

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.107 of 2015

JUDGMENT:

Appellants-claimants filed this appeal challenging the Award dated 20.10.2014 passed in M.V.O.P.No.595 of 2011 by the Judge, Family Court-cum-Additional District Judge, Nizamabad, granting compensation of Rs.4,10,000/- together with costs and interest at 7.5% per annum as against the claim of Rs.5,00,000/- on account of the death of the deceased-Arun Kumar in the motor vehicle accident occurred on 16.01.2008.

2. Heard. Perused the record.

3. Brief facts of the case are that on 16.01.2008, while the deceased Arun Kumar, aged 14 years, was going on the bicycle as a pillion rider, peddled by one Boregaon Subhash, in the outskirts of Mopal Village and at about 9.45 a.m. when they reached near the fields of Bandameedi Buchanna, the lorry bearing No.AP-25-U-8196 came in rash and negligent manner in opposite direction and dashed against the cycle, as a result of which, the pillion rider and rider of the bicycle fell down and the deceased succumbed to injuries instantaneously. Alleging that the deceased was a student-cum-vegetable vendor and earning Rs.8,000/- per month, the claimants, who are the mother and sister of the deceased respectively, filed claim petition seeking compensation of Rs.4,00,000/- against R.1-owner of the crime vehicle and R.2-insurer of the crime vehicle.

4. Before the Tribunal, the first respondent was set *ex parte* whereas the second respondent-Insurance Company filed a written statement denying the age, avocation, income of the deceased, manner of accident, death of deceased and entitlement of the appellants to the compensation and further alleging that the deceased was only a student and not an earning member and that the compensation claimed is excessive.

5. Based on the above pleadings, the Tribunal framed the following issues for its consideration:

1) Whether the accident occurred on 16.01.2008, at about 9.45 AM in the outskirts of Mopal Village, due to rash and negligent driving of Lorry Tipper bearing No.AP-25-U-8196 by its driver?

2) Whether the deceased Yellammakunta Arun Kumar died of the injuries received in that accident?

3) Whether the petitioners are entitled for compensation? If so, to what amount and from which respondent?

4) To what relief?

6. In support of their claim, claimants got examined PWs 1 and 2 and got marked Exs.A.1 to A.5. On behalf of the respondent-Insurance Company, RW.1 was examined and Exs.B.1 and B.2 were got marked. After appreciating the oral and documentary evidence adduced before it, the Tribunal passed the impugned award granting Rs.3,60,000/- towards loss of dependency and Rs.50,000/- towards funeral expenses, loss of love and affection, etc., in total, the Tribunal granted compensation of Rs.4,10,000/- along with costs and interest @ 7.5% per annum

payable by respondents 1 and 2 jointly and severally. Aggrieved by the quantum of compensation, claimants filed this appeal.

7. The claimants contend that the deceased was a student-cum-vegetable vendor and used to earn Rs.8,000/- per month. But, no evidence was adduced in support of their contention either before the Tribunal or this Court. In the absence of any such evidence, the Tribunal has rightly taken the notional income of the deceased at Rs.24,000/- per annum and after applying the multiplier '15' as per the decision of the Hon'ble Supreme Court in ***Sarla Verma vs. Delhi Transport Corporation***¹, the Tribunal arrived the loss of dependency at Rs.3,60,000/-. This Court finds no ground to interfere with the said decision of the Tribunal, in the absence of any contrary evidence adduced by the claimants. Further, the amount of Rs.50,000/- granted by the Tribunal towards funeral expenses and loss of love and affection also cannot be said to be on lower side. Hence, this Court is of the view that the Tribunal passed well considered order and the same needs no interference of this Court.

8. Accordingly, the appeal is dismissed.

Miscellaneous petitions pending in this appeal, if any, shall stand closed. No order as to costs.

T. AMARNATH GOUD, J

16.08.2019
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¹ 2009 (6) SCC 121