

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.674 OF 2006

JUDGMENT:

This appeal is preferred by the appellant/2nd respondent/APSRTC questioning the order of the Chairman, Motor Vehicle Accident Claims Tribunal-cum-II Additional District Judge, Karimnagar, at Jagtial (for short, the Tribunal) in O.P.No.85 of 2006 dated 05.02.2007.

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the original petition.

3. The brief facts of the case are that the petitioner No.1 is the wife, petitioner No.2 is the daughter and petitioner Nos.3 & 4 are the parents of the deceased-G.Venkatesham, who was aged about 27 years, a manufacturer of beedies and earning Rs.5,000/- per month at the time of the accident. While so, on the intervening night of 4/5.04.2003, the deceased and one T.Mallesham were traveling on a motor cycle bearing No.AP 36J 530 from Langarhouse to Bolarum to attend urgent personal work and at about 1.20 a.m. early hours, by the time they reached the foot ball ground near Tirumalgherry Dargah, the driver of Tata mini truck bearing No.AP 9U 7885, owned by the 1st respondent and insured with the 2nd respondent, drove it rashly and negligently, in a high speed, came in opposite direction and while trying to overtake

another vehicle, lost control, came to wrong side, hit the motorcyclist, due to which the deceased fell down, sustained injuries. He died at Gandhi Hospital, Secunderabad, on the same day at 7.00 a.m. Due to the sudden demise of the deceased, the petitioners had lost earning member. Therefore, the petitioners claimed an amount of Rs.4,00,000/- with interest @ 18% per annum, i.e., Rs.5,000/- towards transportation to hospital, Rs.5,000/- towards funeral expenses and Rs.3,90,000/- towards loss of life & loss of consortium.

4. In the claim petition, the 1st respondent remained *ex parte*. The 2nd respondent filed a counter denying the allegations and contended that the amount claimed by the claimants is highly excessive and that it is not liable to pay any compensation and therefore prayed to dismiss the claim petition.

5. 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 of the driver of the mini truck and awarded total compensation of Rs.4,38,000/- i.e., Rs.4,08,000/- towards loss of dependency, Rs.15,000/- towards loss of consortium to the 1st petitioner and Rs.15,000/- towards loss of estate, but since the claimants restricted the claim to only Rs.4,00,000/-, the Tribunal has awarded an amount of Rs.4,00,000/- towards compensation with interest @ 9% per annum from the date of

petition till the date of realization. Aggrieved by the said order, the appellant/2nd respondent/insurance company filed the present appeal.

6. Heard Sri N.Mohan Krishna, learned standing counsel appearing for the appellant/2nd respondent/insurance company and Sri V.Atchuta Ram, learned counsel appearing for respondents 1 to 4/claimants. Perused the material available on record.

7. Sri N.Mohan Krishna, learned standing counsel appearing for the appellant/insurance company, contends that the category of license of the driver of the offending mini truck is not the same, which was granted to him and the same is in violation of the policy guidelines and thus, the claimants are not entitled for any compensation and the O.P. needs to be dismissed and the appeal needs to be allowed.

8. A perusal of the order reveals that the Tribunal passed a well considered order by taking into consideration all the aspects and as against the claim of Rs.4,00,000/-, the Tribunal has also awarded an amount of Rs.4,00,000/- with interest @ 9% per annum. It is settled principal of law that having license itself is sufficient and the category of the license issued to the driver is not a relevant issue with regard to the driving of the vehicle and thus, in view of the above, this Court feels that the compensation awarded by the

Tribunal is just and reasonable. Therefore, I see no reason to interfere with the order of the Tribunal and the appeal is liable to be dismissed.

9. Accordingly, the Motor Accident Civil Miscellaneous Appeal is dismissed. No order as to costs.

Miscellaneous petitions pending, if any, shall stand dismissed.

T.AMARNATH GOUD, J

Date: 25th September, 2019

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