

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.159 OF 2011

JUDGMENT:

This appeal is filed by the appellant-2nd respondent/insurance company aggrieved by the Order and Decree dated 24.06.2005 passed in O.P.No.509 of 1998 by the Motor Accidents Claims Tribunal-cum-IV Additional District Judge (FTC), Mahabubnagar (for short, the Tribunal).

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 1st petitioner is the husband, petitioners 2 to 5 are the children of the deceased-R.Kamamma. On 20.02.1997 the deceased along with her family members boarded in a Travel Agency bus bearing No.AP-03V-1010 at Afzal Gunj, Hyderabad, in order to go to Thirupathi. When the bus reached near to Nakkalakula Vanka Bridge near Edamadaka Village on N.H.No.7 at night about 2.15 a.m., on 21.02.1997, the bus turned turtle and fell down by the road side, due to rash and negligent speed driving of the bus driver. In the said accident, the deceased and one co-passenger died on the spot and some other persons received injuries. Prior to the accident, the deceased was aged about 47 years and was earning Rs.2,000/- per month by doing tailoring work and

contributing the same to her family. Hence, the petitioners filed the claim petition claiming compensation of Rs.2,00,000/-, payable by both the respondents, being the owner and insurer of the offending bus.

4. Before the Tribunal, the 1st respondent remained *ex parte*. The 2nd respondent filed counter denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

5. After considering the oral evidence of P.Ws.1 & 2 and the documentary evidence of Exs.A-1 to A-7 & Ex.B-1, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the offending bus and awarded total compensation of Rs.2,86,000/- with interest @ 9% per annum from the date of petition till the date of realization, payable by both the respondents. Aggrieved by the same, the appellant/2nd respondent/insurance company filed the present appeal.

6. Heard both sides. Perused the material record.

7. The order passed by the Tribunal is just and proper in the light of the Apex Court judgments with regard to granting of compensation. However, with regard to the interest awarded by the Tribunal @ 9% per annum from the date of petition till the date of realisation, which is very excessive, in

view of the several decisions of the Apex Court, this Court feels that it would be just and appropriate if the interest granted by the Tribunal @ 9% is reduced to 7.5% on the awarded amount of Rs.2,86,000/-. Except the said modification, the remaining operative portion of the impugned order is confirmed.

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by reducing the interest from 9% to 7.5% on the compensation amount of Rs.2,86,000/- awarded by the Tribunal, from the date of petition till the date of realization, payable by both the respondents to the surviving claimants, as per their respective shares, as awarded by the Tribunal. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 19th December, 2019

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