

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.130 OF 2011

JUDGMENT:

This appeal is preferred against the judgment of the Motor Accidents Claims Tribunal-cum-XXII Additional Chief Judge, City Criminal Court at Hyderabad (for short, the Tribunal) in O.P.No.508 of 2008 dated 06.04.2010.

2. The appellants herein are the respondents and the respondents herein are the petitioners before the Tribunal. For the sake of convenience, the parties are referred to as they are arrayed before the Tribunal.

3. The brief facts of the case are that petitioner No.1 is the wife and petitioner Nos.2 to 6 are the children of the deceased, Chennapati Seeta Narayana Chary. On 10.12.2007 at about 5.30 pm., while the deceased, after attending his duty, was returning home along with his colleague on a motorcycle as a pillion rider from Bowenpally towards Balanagar road to go to Borabanda, and when they reached near Bowenpally Cross Roads, a military truck bearing No.0401605N 231, came from behind in a rash and negligent manner and dashed against the motorcycle. In the said accident, the deceased fell down and the left wheel of the military truck ran over the deceased, resulting in his death on the spot. The petitioners filed the said OP against the Union of India and another seeking compensation of Rs.13,00,000/- for the death of the deceased in the said accident.

3. In the claim petition, respondent No.1 remained *ex parte*. Respondent No.2 filed counter denying the allegations and contended that there is no negligent driving on the part of the driver of the military truck 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 had occurred due to the rash and negligent driving of the driver of the military truck and awarded total compensation of Rs.11,54,500/- under various heads, with interest @ 7% per annum. Aggrieved by the said judgment, the respondents therein filed the present appeal.

5. Sri N.Rajeshwar Rao, learned counsel for the appellants, submits that though the driver of the crime vehicle, while taking left turn, put the left indicator and his co-driver signaled with left hand, the deceased tried to overtake the vehicle from the left side in a rash and negligent manner and hit the crime vehicle on its left side and died. Therefore, the Tribunal ought to have rejected the claim of the petitioners on that ground. He further submits that the Tribunal, without looking into the cash register, disbursement register of the salary, erroneously fixed the monthly salary at Rs.12,000/-, which is excessive. Basing on the above submission, the learned counsel seeks to set aside the judgment of the Tribunal.

6. Sri A.Ramakrishna Reddy, counsel representing Sri G.Prasanna Anjaneyulu, learned counsel for the respondents/claimants, submits that the Tribunal passed a well considered judgment by taking into consideration all the aspects and seeks to dismiss the appeal.

7. As per the evidence of R.W.1, the driver of the military truck, and as per the contents of Ex.A.2, charge sheet, it is evident that there is rash and negligent driving on the part of the driver of the military truck. Taking into consideration the same, the Tribunal came to the conclusion that the accident had occurred due to the rash and negligent driving of the driver of the military truck, which needs no interference.

8. Insofar as quantum of compensation is concerned, as per Exs.X.5, salary certificate and X.6, appointment letter of the deceased, the deceased was working as Sculptor Assistant (Stone) with M/s.Dharma Vana Arboretum, Cherlapally and drawing a salary of Rs.12,000/- per month. P.W.3, the Director of M/s.Dharma Vana Arboretum, Cherlapally, also deposed that the deceased was appointed in the company on 10.05.2007 and was drawing a salary of Rs.12,000/- per month and that his net salary was Rs.10,764/- by the date of accident. Taking the said aspects into consideration, the Tribunal took the net salary, as stated by P.W.3, into consideration while calculating the compensation, which is just and reasonable. Therefore, I see no reason to interfere with the judgment of the Tribunal and the appeal is liable to be dismissed.

9. Accordingly, the Motor Accident Civil Miscellaneous Appeal is dismissed. Miscellaneous petitions pending, if any, shall stand dismissed. No order as to costs.

T.AMARNATH GOUD, J

Date: 30-12-2019
TJMR

