

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.3462 OF 2009

JUDGMENT:

This appeal is preferred by the appellant/1st respondent questioning the order of the Chairman, Motor Accidents Claims Tribunal-cum-The Principal District Judge, Medak at Sanga Reddy (for short, the Tribunal) in M.V.O.P.No.348 of 2005 dated 15.09.2008.

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed in the M.V.O.P. before the Tribunal.

3. The brief facts of the case are that on 12.02.2004 at about 8.45 p.m., when one G.Venkat Srinivas Goud and the deceased-S.Gopal were conducting vehicle checking on the National Highway No.9 in front of Asa Machine Tools Factory in the outskirts of Kandi Village, one TATA Estate Car bearing No.AP-9/G-11 came from Hyderabad side and driven by its driver in a rash and negligent manner dashed against the deceased, due to which he sustained injuries and succumbed to the same. The deceased was working as an Attender in RTO Office, Sanga Reddy, and earning monthly salary of Rs.5,243/- per month, which he was contributing to petitioners 1 to 7, who are his wife and children respectively. Having lost their breadwinner in the above accident, the petitioners/claimants filed the present claim petition claiming a compensation of Rs.5,00,000/-. The 1st respondent is the original

owner of the crime vehicle, wherein he sold the said crime vehicle to the 2nd respondent.

4. In the claim petition, the 1st respondent filed a counter denying the allegations and contended that the crime vehicle originally belonged to him and he sold the same to the 2nd respondent on 13.01.2004 and that he was ceased to be the owner of the said car and the 2nd respondent alone would be liable. The 1st respondent further contended that the amount claimed by the claimants is highly excessive and that he is not liable to pay any compensation and therefore prayed to dismiss the claim petition.

5. The 2nd respondent filed a counter denying the allegations and contended that the 1st respondent was the owner of the crime vehicle and that on 28.01.2004, he sold the crime vehicle in favour of the 3rd respondent and hence, he has no liability to pay any compensation to the petitioners. The 2nd respondent further contended that the amount claimed by the claimants is highly excessive and that he is not liable to pay any compensation and therefore prayed to dismiss the claim petition.

6. In the claim petition, the 3rd respondent remained *ex parte*.

7. 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 crime vehicle and awarded total compensation of Rs.4,15,720/- with interest @ 7.5% per annum i.e., Rs.4,05,720/- towards loss of

dependency and Rs.10,000/- towards loss of consortium and the 1st respondent was made liable to pay the compensation amount to the claimants and the claim petition against respondents 2 & 3 was dismissed. Aggrieved by the said order, the appellant/1st respondent filed the present appeal.

8. Heard.

9. It is the case of the appellant, who is the 1st respondent in the M.V.O.P., that he is not the owner of the crime vehicle and that he has alienated the said vehicle to the 2nd respondent and thus, he has to be exonerated from the liability.

10. A perusal of the order reveals that the Tribunal has given a categorical finding that the 1st respondent is the owner of the vehicle as per the documents submitted by the RTA Department and as per the RC book. More over, the appellant, who is the 1st respondent in the M.V.O.P., has not placed any material in support of his claim before the Tribunal to show that he has sold the crime vehicle to the 2nd respondent. The 1st respondent has not led any evidence before the Tribunal and has also not marked any exhibits in support of his claim except filing a counter denying the averments of the claim petition and by stating that he is not the owner of the crime vehicle and he has sold the same to the 2nd respondent on 13.01.2004, much prior to the date of the accident. i.e., 12.02.2004. In the absence of any material, the Tribunal has fastened the liability of paying the compensation on the 1st respondent.

11. Sri M.S.N.Prasad, learned counsel appearing for the appellant, submits that in the year 2014, the petitioner company went into liquidation and the same is wound up and presently it is not functioning and the official liquidator is appointed.

12. In view of the above submission, this Court do not express any opinion on the submission made by the learned counsel for the appellant since the same is not part of the present appeal.

13. Therefore, the Tribunal has passed a well considered order by taking into consideration all the aspects and as against the claim of Rs.5,00,000/-, the Tribunal awarded an amount of Rs.4,15,720/- with interest @ 7.5% per annum. Hence, this Court finds 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.

14. 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: 28th August, 2019

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