

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. NO.2397 OF 2012

JUDGMENT:

This appeal is preferred by the appellant/Insurance Company questioning the Order and Decree of the Motor Vehicle Accident Claims Tribunal-cum-Judge, Family Court-cum-Additional District Judge at Karimnagar (for short, the Tribunal) in O.P.No.269 of 2009, dated 18.05.2011.

2. The brief facts of the case are that respondent No.1 is the wife, respondent No.2 is the daughter, respondent No.3 is the son and respondent No.4 is the mother of the deceased, A.Satyanarayana. On 30.04.2008, while the deceased was traveling in an auto bearing No.AP15W 9929 to go to Karimnagar from Vemulawada, and when the auto reached near Shanthinagar bus stage at the outskirts of Chinthakunta at about 3.00 am., the driver of the auto drove it in a rash and negligent manner and dashed against a stationed lorry, as a result of which, the deceased died on the spot. Respondent Nos.1 to 4 herein filed the aforesaid OP against owner of the auto (respondent No.5 herein) and insurer of the auto (appellant herein), claiming compensation of Rs.15,00,000/- for the death of the deceased.

3. Before the Tribunal, owner of the auto, remained *ex parte*. The appellant-Insurance Company 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, as the driver of the auto was not having driving licence, 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 occurred due to the rash and negligent driving of the driver of the auto and awarded total compensation of Rs.14,95,440/- i.e., Rs.14,80,440/- towards loss of dependency, Rs.10,000/- towards loss of consortium and Rs.5,000/- towards funeral expenses, with interest at the rate of 8% per annum. Aggrieved by the said order, the appellant/Insurance Company filed the present appeal.

5. Sri A.Ramakrishna Reddy, learned counsel for the appellant, submits that as the driving license of the driver of the auto was expired much prior to the accident, the appellant has no liability to pay the compensation. He further submits that the claim petition is bad for non-joinder of necessary and proper parties, as the claimants did not made the owner and insurer of the lorry. He further submits that after the death of the deceased, his son i.e., respondent No.3 herein was appointed as a regular employee in the High Court and hence, he is not the dependant on the deceased. Therefore, the Tribunal ought to have deducted personal expenses of the deceased at 1/3rd instead of 1/4th.

6. Sri Ramachandar Rao Vemuganti, learned counsel for respondent Nos.1 to 4, submits that the Tribunal passed a well reasoned order and sought to dismiss the appeal.

7. Though the learned counsel for the appellant contended that the driving license of the driver of the auto was expired much prior to the accident and hence, the appellant has no liability to pay the compensation, the appellant could not prove that aspect.

Therefore, I am not inclined to go into that aspect and the said contention is rejected.

8. Coming to the quantum of compensation, the Tribunal, by treating respondent Nos.1 to 4 herein as the dependants, had deducted 1/4th of the income of the deceased towards personal expenditure and accordingly granted compensation of Rs.14,80,440/- towards loss of dependancy. It is to be noted that after the death of the deceased, appellant No.3 herein secured job in the High Court on compassionate grounds and hence, he cannot be treated as the dependant on the income of the deceased. Therefore, the finding of the Tribunal in that regard needs to be modified and 1/3rd of the income of the deceased has to be deducted towards personal expenditure. Hence, the compensation under the head 'loss of dependancy' comes to Rs.13,16,016/- (Rs.12,654 (-) 4,218/- = Rs.8,436/- X 12 months X 13). Except the said modification, the order of the Tribunal remains unchanged.

9. Accordingly, the Motor Accident Civil Miscellaneous Appeal is partly allowed reducing the compensation amount awarded by the Tribunal from Rs.14,95,440/- to Rs.13,31,016/-. Miscellaneous petitions pending, if any, shall stand dismissed. No order as to costs.

T.AMARNATH GOUD, J

Date: 01-08-2019
TJMR