

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.3743 of 2005

JUDGMENT:

This appeal is preferred by the appellant/insurer questioning the order of the Motor Accident Claims Tribunal-cum-III Additional District Judge (FTC), Khammam (for short, the Tribunal) in M.A.T.O.P.No.821 of 2000 dated 03-05-2000.

2. Brief facts of the case are that on 05-11-2000, while the deceased - Madarbee was proceeding in a tractor and trailer bearing No.AP 16 T 6496 and 6497, the driver of the said tractor drove the vehicle in a rash and negligent manner at high speed and due to which, she fell down from the trailer, and the trailer ran over her and she died on the spot. Hence, the claimants, who are the parents of the deceased, filed the O.P. seeking compensation of Rs.1,50,000/- for the death of their daughter in the said accident against the appellant and respondent Nos.3 and 4, who are the insurer, driver and owner of the crime vehicle.

3. In the claim petition, the appellant-insurer 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.

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 crime vehicle and awarded total compensation of Rs.1,32,500/- with interest at the rate of 9% per annum. Aggrieved by the said order, the appellant/insurer filed the present appeal.

5. Sri A. Ramakrishna Reddy, learned Standing Counsel for the appellant/insurer contends that the deceased was an unauthorized passenger and therefore the claimants are not entitled for compensation; and that a sum of Rs.50,000/- was paid towards 'no fault liability' in the O.P. and the same may be ordered to be returned;

6. This Court in number of cases, expressed its opinion that once the deceased or the injured fell on the ground/road from the vehicle and if the vehicle ran over the body of the deceased/injured, the claimants are entitled for compensation since the accident has to be treated under Act policy as the claimants/deceased would be considered as third party.

7. In view of the same, this Court is not inclined to interfere with the compensation awarded by the trial Court. However, it is clarified that the amount of Rs.50,000/- paid by the insurer under 'no fault liability' is adjusted in the present award. Further, as the Tribunal granted rate of interest @ 9% p.a., since it is excessive, the same is reduced to 7.5% p.a.

8. With the above observations, the appeal filed by the insurer is partly allowed. No costs.

9. Miscellaneous petitions pending, if any, shall stand dismissed.

T.AMARNATH GOUD, J

Date: 25-10-2019
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