

HONOURABLE SRI JUSTICE T. AMARNATH GOUD

M.A. C.M.A. No.2145 OF 2012

JUDGMENT:

Questioning liability and quantum of compensation awarded by the learned Chairman, Motor Accident Claims Tribunal - cum - IX Additional Chief Judge (Fast Track Court), City Civil Court, Hyderabad, by the award dated 09.03.2012 in M.V.O.P. No.1877 of 2009, M/s. National Insurance Company Limited, preferred this Motor Accidents Civil Miscellaneous Appeal.

2. Heard learned counsel on either side and perused the material on record.

3. It is a case of death. Claimants, who are respondent Nos.1 to 3 herein, are wife and children of deceased, filed the claim petition under Section 166 of the Motor Vehicles Act, 1988, seeking a compensation of Rs.5,00,000/- for the death of deceased V. Anil Narsimha alias Narsimha in a road accident occurred on 12.08.2009 at about 14:30 hours while he was proceeding on his Hero Honda Splendor Motorcycle bearing No.AP 09H 634 along with pillion rider from Hayathnagar side towards Kuntloor, lorry bearing No.AP 16TY 1227 dashed his motorcycle, on the ground that the deceased, who was aged 19 years, was working in Santhoshi Travels, Dilsukhnagar, Hyderabad on a monthly salary of Rs.4,500/- and on account of his death, they lost the earning member in their family. The Tribunal framed relevant issues for (i) fixing liability for causing accident, and

(ii) for award of compensation, if any, entitled to by the claimants and from whom. The 1st claimant, who was wife of the deceased, examined herself as PW.1 and also examined PWs.2 and 3 and got marked Exs.A-1 to A-10 to substantiate their case. Whereas, the Insurer, appellant herein, did not adduce any oral evidence to rebut the case of the claimants, but got marked the copy of insurance policy as Ex.B.1. Thus, there was no evidence on behalf of the appellant. However, the Tribunal, on an elaborate consideration of oral and documentary evidence on record produced by the claimants, held that the accident had occurred due to rash and negligent driving of the driver of the lorry and considering that the deceased would be in the age group of 20-25 years, arrived the multiplier at '12' as per the Second Schedule appended to the Act, and also considering the income of the deceased at Rs.4,500/- per month and after deducting 1/3rd thereof, arrived at Rs.6,12,000/- towards compensation, but since the claimants claimed for Rs.5,00,000/-, restricted it to that extent. Assailing the same, the insurer preferred this appeal questioning liability and compensation and also taking the plea of contributory negligence. Admittedly, the accident had taken place and the death of the deceased had occurred due to rash and negligent driving of the driver of the lorry. The appellant did not choose to enter into witness box before the Tribunal to support its case. On the other hand, as stated above, the Tribunal considering the oral and documentary evidence on record produced by the claimants, has rightly held that the accident had occurred due to rash and negligent driving of the

driver of the lorry and considering the age of the deceased, his occupation and income, has rightly granted just, fair and reasonable compensation to which the claimants entitled. In view of the same, this Court is of the considered view that the award passed by the Tribunal is well considered and needs no interference. Thus, there are no grounds to entertain this appeal.

4. Therefore, the Civil Miscellaneous Appeal is dismissed.

No order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in the appeal stand closed.

August 2, 2019.
Mgr

T. AMARNATH GOUD, J

