

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.3479 OF 2005

JUDGMENT:

This appeal is filed by the appellant-2nd respondent/insurance company aggrieved by the Order and Decree dated 13.05.2003 passed in O.P.No.1035 of 2001 by the Motor Accident Claims Tribunal (District Judge), At Nizamabad (for short, the Tribunal).

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the original petition.

3. The brief facts of the case are that the 1st petitioner is the wife and petitioners 2 to 4 are the children of the deceased-Muneeruddin. On 18.10.2000 the deceased was driving the APSRTC bus bearing No.AP 10Z 6942 from Hyderabad towards Nanded slowly and cautiously on the side of the road at about 9.30 p.m. when the bus reached Indalwai on Nagpur to Hyderabad road, meanwhile one lorry bearing No.AP 5U 6396, driven by its driver in a rash and negligent manner, came from the opposite direction on the wrong side of the road and dashed against the bus due to which the deceased, who was driving the bus, received head injuries, crush injuries and multiple fractures all over the body and died on the spot. The other persons also received injuries and fractures. The accident occurred only due to rash and negligent driving of the offending lorry. By the date of the accident, the deceased was aged about 38 years and was earning Rs.12,000/-

per month as driver of the RTC bus and was contributing his entire earnings to the petitioners, who are only legal heirs of the deceased. Thus, the petitioners filed the claim petition claiming compensation of Rs.10,00,000/-, payable by both the respondents, being the owner and insurer of the offending lorry.

4. Before the Tribunal, the 1st respondent remained *ex parte*. The 2nd respondent filed its written statement denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

5. After considering the oral evidence of P.Ws.1 & 2 and the documentary evidence of Exs.A-1 to A-7, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the offending lorry and awarded total compensation of Rs.8,47,280/-, i.e., Rs.8,19,780/- towards loss of dependency, Rs.15,000/- towards loss of consortium, Rs.10,000/- towards loss of estate & Rs.2,500/- towards funeral expenses, with interest @ 9% per annum from the date of petition till the date of realization, payable by both the respondents. Aggrieved by the same, the appellant/2nd respondent/insurance company filed the present appeal.

6. Heard.

7. The order passed by the Tribunal is just and proper in the light of the Apex Court judgments with regard to fixing of notional

income and applying the multiplier and granting conventional heads. However, with regard to the interest awarded by the Tribunal @ 9% per annum from the date of petition till the date of realisation, which is very excessive, in view of the several decisions of the Apex Court, this Court feels that it would be just and appropriate if the interest granted by the Tribunal @ 9% is reduced to 7.5% on the awarded amount of Rs.8,47,280/-. Except the said modification, the remaining operative portion of the impugned order is confirmed.

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by reducing the interest from 9% to 7.5% on the compensation amount of Rs.8,47,280/- awarded by the Tribunal, from the date of petition till the date of realization, payable by both the respondents. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 11th November, 2019

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