

**THE HON'BLE SRI JUSTICE T.AMARNATH GOUD**

**M.A.C.M.A. NO.1224 OF 2013**

**JUDGMENT:**

This appeal is preferred by the appellant-Insurance Company questioning the Order and Decree of the Motor Accident Claims Tribunal-cum-III Additional Chief Judge, City Civil Court, Hyderabad (for short, the Tribunal) in O.P.No.89 of 2011, dated 26.10.2012.

2. The brief facts of the case are that respondent Nos.1 and 2 are the parents of the deceased, G.Venkateshwar Rao. On 02.09.2010, at about 9.00 PM., the deceased along with two others were proceeding on a Hero Honda Motorcycle bearing No.AP29AD 5298 from Nagaram towards ECIL side and when they reached near S.V.Nagar, Nagaram, the lorry bearing No.AP27U 9222, driven by its driver at high speed and in a rash and negligent manner, came from back side and dashed the motorcycle. In the said accident, the deceased sustained fatal injuries and died on the spot. Respondent Nos.1 and 2 herein filed the aforesaid OP against owner of the lorry (respondent No.3 herein) and insurer (appellant herein), claiming compensation of Rs.8,00,000/- for the death of the deceased.

3. Before the Tribunal, respondent No.3-the owner of lorry remained *ex parte*. The appellant-insurer of the lorry filed its counter denying the allegations and contended that the compensation claimed is highly excessive and that they are not liable to pay the 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 lorry and awarded total compensation of Rs.7,84,000/- under various heads, with interest at the rate of 7% per annum. Aggrieved by the said order, the appellant-insurance company filed the present appeal.

5. Sri C.Buchi Reddy, learned counsel appearing for the appellant-insurance company submitted that the Tribunal failed to consider that three persons were traveling on the motorcycle at the time of accident and that the accident took place due to the negligent driving of the rider of the motorcycle. He further submitted that the Tribunal ought to have fixed the contributory negligence or composite negligence on the part of drivers of both the vehicles, but erroneously fixed the liability on the driver of the lorry. He further submitted that the Tribunal has wrongly fixed the income of the deceased at Rs.8,000/- per month, which is excessive and exorbitant. Therefore, he prayed to allow the appeal by setting aside the order passed by the Tribunal.

6. Per contra, Sri P.Ramakrishna Reddy, learned counsel for respondent Nos.1 and 2, submitted that the Tribunal passed a well reasoned order by appreciating the evidence adduced before it and sought to dismiss the appeal.

7. A perusal of the order reveals that the Tribunal after consideration of the oral and documentary evidence available on record, rightly came to the conclusion that the accident in the present case, occurred due to the rash and negligent driving of the

lorry by its driver, and the Tribunal has rightly awarded compensation basing on the oral and documentary evidence available on record and therefore, the said order needs no interfere by this Court.

8. Accordingly, the Civil Miscellaneous Appeal is dismissed. Miscellaneous petitions pending, if any, shall stand dismissed. No order as to costs.

**T.AMARNATH GOUD, J**

Date: 07.01.2020.

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