

HONOURABLE JUSTICE M.G. PRIYADARSINI

M.A.C.M.A. No. 743 of 2015

JUDGMENT:

This appeal is filed under Section 173 of Motor Vehicles Act, aggrieved by the judgment and decree, dated 27.10.2014 made in O.P.No.166 of 2011 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-the IV Additional District Judge (FTC) at Siddipet (for short “the Tribunal”).

2. For the sake of convenience, hereinafter, the parties will be referred to as per their array before the Tribunal.

3. Brief facts of the case are that the claimants filed a petition under Section 166 of the Motor Vehicles Act, 1988 claiming compensation of Rs.12,00,000/- for the death of one Payyavula Narayana (hereinafter referred to as “the deceased”), who died in a motor vehicle accident that occurred on 05.12.2010. It is stated that on 05.12.2010 while the deceased was proceeding from Siddipet to Mirdoddi to attend his duty on his motorcycle bearing No.AP 28 CD 2446 and when he reached the outskirts of Burugupally village near Vishalakshmi Rice Mill, one Lorry bearing No.AP 21 W 1611, owned by respondent No.1 and insured with respondent No.2, being driven by its driver in a rash and negligent manner at high speed, dashed the

motorcycle of the deceased, due to which the deceased fell down, sustained grievous injuries and died on the spot. Since the accident occurred only due to the rash and negligent driving of the driver of the Lorry, the claimants filed the aforesaid O.P.

4. After considering the claim and the counter filed by the respondent No.2, appellant herein, and on evaluation of the evidence, both oral and documentary, the learned Tribunal has allowed the O.P. awarding compensation of Rs.12,20,830/- with interest at 7.5% per annum. Challenging the same, the present appeal has been filed by the Insurance Company.

5. Heard and perused the record.

6. Learned Standing Counsel appearing for the appellant would submit that this is a clear case of contributory negligence of the deceased and the claim-petition is bad for non-joinder of necessary parties i.e., owner and insurer of the motorcycle on which the deceased was proceeding. It is also submitted that though the claimants have filed the salary certificate of the deceased, Ex.A.7, they failed to examine the authorized person who issued Ex.A.7. Therefore, the learned Standing Counsel prayed to allow the appeal.

7. The learned counsel appearing for the claimants submits that after considering the material available on record, the Tribunal has categorically observed that the accident occurred due to the negligent driving of the Lorry by its driver, therefore, there was no contributory negligence on the part of the deceased. It is further submitted that the Tribunal has rightly awarded just compensation which needs no interference.

8. Insofar as the contributory negligence is concerned, a perusal of the impugned judgment discloses that the Tribunal has framed issue No.1 as to whether the accident had occurred due to rash and negligent driving of the Lorry by its driver, and after considering the evidence of P.Ws.1 to 3 coupled with the documentary evidence, it has categorically observed that the accident has occurred due to the rash and negligent driving of the driver of the Lorry and answered the issue in favour of the claimants and against the respondents. Therefore, I see no reason to interfere with the finding of the Tribunal that the accident occurred due to the rash and negligent driving of the driver of Lorry.

9. Insofar as the quantum of compensation is concerned, after considering Ex.A7-salary certificate, the Tribunal has

rightly taken the income of the deceased at Rs.18,763/- per month; after deducting 1/3rd amount and applying multiplier at '8' the Tribunal has awarded Rs.12,20,830/-. Therefore, I see no reason to interfere with the quantum of compensation awarded by the Tribunal. No ground is made out by the learned counsel for the appellant to interfere with the well reasoned order passed by the learned Tribunal. Hence, the M.A.C.M.A. is devoid of merits and the same is liable to be dismissed.

10. Accordingly, the M.A.C.M.A. is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE M.G.PRIYADARSINI

10.11.2022
tsr

HONOURABLE JUSTICE M.G. PRIYADARSINI

M.A.C.M.A. No. 743 of 2015

DATE:10-11-2022