

THE HON'BLE JUSTICE G. SRI DEVI

M.A.C.M.A.No.1975 of 2007

JUDGMENT:

1. This appeal is preferred by the appellant, The New India Assurance Company Limited, questioning the order and decree dated 20.03.2007 passed in M.V.O.P.No.96 of 2003, on the file of the Motor Accidents Claims Tribunal-cum-(District Judge), Khammam (for short, the Tribunal).

2. The appellant herein is the 2nd respondent; Respondents 1 to 4 herein are the claim petitioners and respondent No.5-owner of the Auto, is the respondent No.1 in the claim petition.

3. The claimants filed a petition under Section 166 of the Motor Vehicles Act claiming compensation of Rs.7,00,000/- for the death of the deceased Nallapu Venakaiah, who died in a motor accident with the Auto bearing No.AP-20-U-1806. It is stated that on 29.02.2000 at about 19.15 hours, when the deceased was proceeding to his friend's house situated at Paloncha town, an Auto bearing No.AP-20-U-1806 came in a rash and negligent manner at a high speed and dashed the deceased due to which the deceased sustained grievous injuries on his vital organs i.e. on testicles and succumbed to injuries on the spot. The son of the deceased gave a complaint to the Police and a case in Crime No.12 of 2000 was registered against the

driver of the Auto. Since the deceased was hale and healthy before the accident and he was working as Mazdoor in KTPS, Paloncha and used to earn Rs.4551.50 paise per month and after the accident, as there is a great loss to the estate of the family of the deceased, the claimants claimed compensation of Rs.7,00,000/- by filing an O.P. before the Tribunal.

4. Before the Tribunal, the 1st respondent filed counter denying the averments made in the claim petition and further stated that as the vehicle in question had been insured with the 2nd respondent, the 2nd respondent is liable to pay the compensation.

5. The 2nd respondent, besides denying the averments made in the claim petition, specifically pleaded in its counter that the driver of the Auto was not holding a valid driving license and had also stated that the Respondent No.1 had not informed about the said accident and that the compensation claimed is excessive and hence prayed to dismiss the claim petition.

6. Basing on the above pleadings, the following issues are framed before the Tribunal:-

- 1) Whether the accident took place due to rash and negligent driving of the Auto bearing No.AP-20-U-1806 by its driver?

- 2) Whether the petitioners are entitled to claim any compensation? If so, to what amount and from which of the Respondents?
- 3) To what relief?

7. During trial, on behalf of the claimants, P.W.1 was examined and Exs.A1 to A5 were marked. On behalf of the respondents, R.W.1 was examined and Ex.B1 was marked.

8. 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 driver of the Auto and awarded total compensation of Rs.4,02,832/- together with interest @ 7.5% per annum. Aggrieved by the said order, the appellant-Insurance Company filed the present appeal.

9. Heard and perused the record.

10. A perusal of the order reveals that the Tribunal passed a well considered order by taking into consideration all the aspects. The Tribunal has framed the Issue No.1 as to whether the accident took place due to rash and negligent driving of the Auto bearing No.AP-20-U-1806, to which the Tribunal has categorically relied upon FIR in Crime No.12 of 2000 which was registered in Paloncha Police Station against the driver of the Auto and hence, came to conclusion that the accident had occurred due to the rash and negligent driving of the driver of

the Auto and had answered Issue No.1 in favour of the claimants and against the respondents. With regard to quantum of compensation, since the deceased was working as Mazdoor in KTPS, Paloncha and used to earn Rs.3,758/- per month, the Tribunal has rightly taken the income of the deceased as Rs.3,758/- and by applying relevant multiplier and granting amounts towards loss of consortium and funeral expenses, had awarded compensation of Rs.4,02,832/- towards compensation. Therefore, I see no reason to interfere with the order of the Tribunal and the appeal is liable to be dismissed.

11. Accordingly, the M.A.C.M.A. is dismissed confirming the order and decree passed by the Tribunal. There shall be no order as to costs.

12. Miscellaneous petitions, if any pending, shall stand closed.

JUSTICE G. SRI DEVI

Dt.20.07.2022
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