

THE HON'BLE SRI JUSTICE PULLA KARTHIK

M.A.C.MA. No.2556 of 2007

JUDGMENT:

This appeal is filed by the insurance company challenging the order and decree passed in O.P. No. 583 of 2005 dated 18-07-2007 on the file of the Chairman Motor Vehicles Accidents Claims Tribunal-Cum-II, Additional Chief Judge, City Civil Court, at Hyderabad wherein the Tribunal allowed the petition in part and awarded a compensation of Rs.3,14,000/-, as against the claim of Rs.6,00,000/- on account of death of Siva Kumar in an accident that occurred on 15.01.2005.

2. The case of the claim petitioner in brief:

On 15-01-2005 at about 5.30 p.m. the deceased Siva Kumar reached the huts opposite to Syndicate Bank and then a Petrol Tanker bearing No. AP 15U 358 which is proceeding in the same direction, came in a rash and negligent manner and at a high speed from behind him and dashed against him. As a result, the deceased fell down

with the cycle and the Tanker ran over the head of the deceased due to which the deceased died on the spot. It is pleaded that due to untimely death of the deceased, the petitioner has lost his love and affection and contributions made by the deceased to their family.

3. The appellant filed its counter and denied the averments in the petition and further pleaded that the compensation paid is highly excessive and there is no negligence on the part of the driver of the tanker. It is further pleaded that the deceased himself was rash and negligent and therefore respondent No.2 disowned its liability to pay the compensation.

4. Basing on the above pleadings the Tribunal has framed the following issues:

1. Whether the accident in question took place on 15-01-2000 due to rash and negligent driving of a petrol tanker bearing No. AP 15U 358, by its driver resulting in instantaneous death of the deceased S.Siva Kumar?

2. Whether the petitioners are entitled to claim compensation for the death of the deceased as his legal heirs? If so, to what amount and from whom?
3. To what relief?
5. In support of their respective pleadings and contentions, on behalf of the claim petitioners, the 1st petitioner herself examined as PW1 and a direct witness to the incident and the employer of the deceased examined as PW2 and PW3 and Ex.A1 to A8 were marked on their behalf.
6. The contesting 2nd respondent did not adduce any evidence on its behalf, but however, got marked a copy of the policy issued in favour of respondent No.1, covering the crime vehicle, as on the date of accident as Ex.B1.
7. Heard both sides and perused the record.
8. The appellant contends that the Tribunal had erred in taking Rs.3,000/- as monthly income of the deceased in

the absence of income proof of deceased and it is further contended that the Tribunal had applied multiplier 13 which is not in accordance with law.

9. In contra, the respondent contends that the Tribunal had rightly passed an award basing on the oral and documentary evidence. It is further contended that there is no error in the order of the Tribunal and requested to dismiss the appeal.

10. This court has taken note of the above submissions made by the respective parties.

11. As per Ex.A6, the age of the deceased was 22 years and he was an unmarried person. Hence the tribunal had taken the age of the mother into consideration for fixing the multiplier. Admittedly the age of the mother of the deceased is 50 years. Hence the proper multiplier applicable is 13.

12. Regarding income of the deceased, according to the petition contents and evidence of PW1, the deceased was earning Rs.5,000/- per month working in Venu Steel and

Cements. To substantiate his case apart from the evidence of PW1 the claim petitioners have relied upon the evidence of PW3 who claims himself to be proprietor of Venu Steels and cements. But PW3 did not file any document to substantiate that he is the proprietor of Venu Steels and cements. Hence the Tribunal had taken the income of the deceased at Rs.3,000/- per month and deducted 1/3 towards his personal expenses and justified in awarding Rs.24,000x13=Rs.3,12,000/- towards the contribution of the deceased.

13. In view of the above, this court does not find any error in the order of the tribunal. Hence the appeal is liable to be dismissed.

14. Accordingly, the appeal is dismissed. There is no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE PULLA KARTHIK

Date: 29-10-2022
ASR