

THE HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A. No. 4231 of 2014

JUDGMENT:

This appeal, by the New India Assurance Company Limited, is filed under Section 173 of Motor Vehicles Act, aggrieved by the order and decree, dated 05.09.2014 passed in M.V.O.P.No.85 of 2012 on the file of the Motor Accidents Claims Tribunal (IV Additional District judge, FTC-III), Khammam (for short "the Tribunal").

2. For the sake of convenience, the parties will be hereinafter referred to as arrayed 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.20,00,000/- for the death of one Chittoju Venkateshwarlu (hereinafter referred to as "the deceased"), who died in a motor vehicle accident that occurred on 26.06.2011. It is stated that on 26.06.2011 at about 11:00 a.m., the deceased, along with Rambrahma Chary, went to Maremma Temple on a motorcycle bearing No.AP 20 AA 1377 to attend a function and after attending

function, while they were returning to Khammam and reached Telesu Thanda at about 4:00 p.m., the rider of the motorcycle drove it in a rash and negligent manner and in order to avoid collision against another vehicle coming from opposite direction, went to the side of the road and dashed against a tree, due to which the deceased sustained severe injuries. Immediately after the accident, the deceased was shifted to Cure Hospital, Khammam and from there he was shifted to Kamineni Hospital, Hyderabad where he succumbed to injuries while undergoing treatment. The claimants have spent Rs.6,50,000/- for the treatment of the deceased. It is also stated that prior to the accident, the deceased was working as goldsmith and earning Rs.15,000/- per month and due to sudden demise of the deceased, the claimants lost their source of income. Therefore, the claimants laid the aforesaid claim against the respondents.

4. After considering the claim and the counter filed by the appellant/respondent No.3, and on evaluation of the evidence, both oral and documentary, the learned Tribunal

has allowed the O.P. and awarded compensation of Rs.20,00,000/- with interest at 7% per annum. Challenging the same, the present appeal has been filed by the appellant, Insurance Company.

5. Heard both sides and perused the record.

6. A perusal of the impugned judgment discloses that the Tribunal having framed issue No.1 as to whether the accident had occurred due to rash and negligent driving of the rider of the motorcycle and after considering the evidence of P.W.2 coupled with the documentary evidence, categorically observed that the accident has occurred due to the rash and negligent driving of the driver of the motorcycle 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 rider of the motorcycle bearing No.AP 20 AA 1377.

7. Insofar as the quantum of compensation is concerned, after considering the age and avocation of the

deceased, the Tribunal has rightly taken the income of the deceased at Rs.15,000/- per month; after deducting 1/3rd amount towards living and personal expenses of the deceased and applying multiplier at '16' the Tribunal has awarded Rs.20,00,000/- which is just and reasonable. Therefore, I see no reason to interfere with the quantum of compensation awarded by the Tribunal.

8. Insofar as the liability of the compensation is concerned, the Tribunal has rightly held that the offending motorcycle was insured with the appellant, respondent No.3 and an amount of Rs.350/- has been collected towards third party premium and as respondent Nos.1 and 2 are the legal heirs of rider/owner of the motorcycle, respondent Nos.1 to 3 are jointly and severally liable to pay the compensation. No grounds are 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.

9. 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

25.11.2022
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DATE: 25-11-2022

