

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

MA.CMA.NO.2398 OF 2014

JUDGMENT

Assailing the order and decree dated 7.1.2014 passed by the court of the Motor Accidents Claims Tribunal – cum – IX Additional District and Sessions Judge, Wanaparthi, in O.P.No.206 of 2012 (Old O.P.No.445 of 2010), the Insurance Company filed the present appeal.

2. Heard Sri K.Ajay Kumar, learned counsel for the appellant – Insurance Company and Sri A.Vishnu Verdha Reddy, learned counsel for the respondents – claimants.

3. The case of the claimant is that on 24.5.2010 the deceased went for morning walk, and while returning at about 6.00 a.m., when he was on left side of the road, DCM Van bearing No. AP 22 W/5284 came in a rash and negligent manner at high speed and dashed him, due to which he sustained fatal injuries. One Balaraju, who was jogging on the same road behind the deceased, witnessed the accident and tried to stop the vehicle, but the driver fled away with the vehicle. The said Balaraju called 108 ambulance and shifted the injured Kola Raghu to the Government Area Hospital, Nagarkurnool and from there, he was shifted to Osmania

Hospital for better treatment, but he succumbed to the injuries. A case in Cr.No.43 of 2010 was registered against the driver of the DCM Van.

4. The Tribunal considering the evidence of P.W.1, who is the wife of the deceased and also the evidence of P.Ws.2 and 3 who are the eye witnesses to the accident, coupled with Exs.A-1 to A-5, and in the absence of any rebuttal evidence by the respondents, held that the accident occurred due to rash and negligent driving of the crime vehicle owned by the 1st respondent, and that the deceased died due to the injuries sustained in the said accident.

5. In view of this finding of fact based on evidence, the ground raised by the appellant that the accident was not occurred due to rash and negligent driving of the driver of the van and that the vehicle was planted, to claim compensation, has no legs to stand, and the same is hereby rejected.

6. The case of the claimants is that the deceased was earning more than Rs.20,000/- per month by doing cultivation by raising commercial crops and that he is also maintaining buffaloes and that he owns an extent of Acs.13.25 gts. They also filed pattadar pass books. The Tribunal considering the facts and circumstances of the case, has taken an amount of Rs.5,000/- per month. Having regard to the extent of land owned by

the deceased and also the buffaloes he owns, and in the absence of any rebuttal evidence by the insurance company, I am of the considered view, that the income of the deceased, taken by the Tribunal, is just and proper. After deducting 1/4th towards personal expenses, as the claimants, who are dependants of the deceased, are five in number, and as the deceased was aged 60 years, applying the multiplier of 9, arrived at Rs.4,59,000/- towards loss of dependency. The Tribunal also awarded an amount of Rs.50,000/- towards loss of consortium, Rs.25,000/- towards funeral expenses and Rs.25,000/- towards loss of estate, and thus in all awarded an amount of Rs.5,59,000/-.

7. Having regard to the facts and circumstances of the case, I do not find any reason to interfere with the impugned order, and the appeal is devoid of any merits and the same is accordingly dismissed.

8. Interlocutory Applications pending, if any, shall stand closed.

No order as to costs.

M.G.PRIYADARSINI,J

DATE:02—09—2022
AVS