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

MA.CMA.NO.2433 OF 2015

JUDGMENT

Assailing the order and decree date 18.08.2015 in O.P.No.158 of 2012 passed by the court of the Chairman Motor Accident Claims Tribunal (special Sessions Judge for Trial of Cases under SCs/STs (POA) Act cases – cum – Additional District and Sessions Judge at Nalgonda, the Insurance Company filed the present appeal.

2. The deceased is one Syed Jerenna, and the claimants are her parents.

3. The Tribunal, considering the evidence of P.W.1, who is the father of the deceased and considering the evidence of P.W.2, who is an eye witness to the accident, and also considering the investigation conducted by the police, held that on 23.4.2009 while the deceased was travelling in the Tata Sumo bearing No. AP 12 F 8089, and that while it was proceeding towards Duppalapally, the drive of the crime vehicle drove the vehicle in a rash and negligent manner, and hit the stationed lorry bearing No. AP 16 W 7300, as a result, the deceased sustained multiple injuries and died on the spot.

4. As per Ex.A-3 postmortem certificate, the deceased was aged 23 years. Though the claimants claimed that the deceased was earning an amount of Rs.8,000/- per month by working as receptionist in Bajaj Showroom at Nalgonda and also by giving tuitions, as no tangible evidence was produced, the Tribunal taking the income of the deceased as 6,000/- per month, and as she was unmarried, deducted 50% towards her personal and living expenses, and taking the average age of the parents of the deceased for the purpose of applying

multiplier, and accordingly by taking the multiplier of 9, granted an amount of Rs.3,24,000/- towards loss of dependency. The Tribunal also granted an amount of Rs.20,000/- towards funeral expenses. Thus, in all, granted an amount of Rs.3,44,000/- with interest at the rate of 8% per annum and made both the insured as well as the insurer liable to pay the compensation.

5. However, the claimants did not choose to file any appeal, and it is the insurer which preferred the present appeal.

6. The main contention of the learned counsel Smt. Satya Manjula, appearing for the insurance company, is that the deceased was not covered under the policy, as no additional premium was paid, and hence the insurance company cannot be made liable to pay the compensation. She further contended that the interest granted by the Tribunal in excessive.

7. Though notice is served on the respondent, there is no representation and hence the matter is taken up for disposal on merits.

8. With regard to the first contention of the learned counsel for the appellant, it could be seen that the trial court relied on the judgment passed by a learned single Judge of the erstwhile High Court of A.P. in MA.CMA.No.339 of 2007 dated 18.02.2010, wherein it was held as under:

> "The expression of third party is wide enough to cover any person other than the Insured and the Insurer and nothing is given in the policy that the premium of Rs.700/- was received towards third party driver. It, therefore, follows that if a private vehicle is allowed to carry persons other than the owner or the driver as per the conditions of registration, all such persons come within the expression of third party."

9. Thus from the above judgment it is clear that even the inmates permitted to be carried in a private vehicle as per the conditions of registration, are covered under the

expression of ‘third party’. Therefore, it is clear that the deceased, who was travelling in the crime vehicle, is covered under the express ‘third party’, and hence the claimants, who are the parents of the deceased are entitled to seek for compensation for the death of their daughter in the accident.

10. Considering the law laid down in the above judgment, the Tribunal awarded compensation, and fastened the liability on the insured and the insurer and hence no exception can be taken.

11. With regard to the rate of interest, the Apex Court and this court have been granting interest only at the rate of 7.5 %. In the present case the Tribunal awarded interest at the rate of 8%. Hence, the interest granted by the Tribunal is reduced to 7.5% from the date of the claim petition till the date of realization.

12. By modifying the rate of interest as indicated above, the appeal is partly allowed.

13. Interlocutory Applications pending, if any, shall stand closed. No order as to costs.

M.G.PRIYADARSINI,J

DATE:22—08—2022

AVS