

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

MA.CMA.NO.2503 OF 2014

JUDGMENT

Assailing the award and decree dated 26.3.2014 passed by the court of the Chairman, Motor Vehicle Accidents Claims Tribunal – cum – Principal District Judge, Karimnagar in MVOP.No.165 of 2012, the insurance company filed the present appeal.

2. The deceased is one Vemuganti Chandraiah and the claimants are his wife and children.

3. The case of the claimant is that on 6.9.2010 while the deceased and claimant No.1, after attending to labour work at Annapurna Parboiled Rice Mill at Thummanapally village, were returning to their house on foot, at about 5.30 p.m., when they reached near the house of one Uradi Raji Reddy, and when they were crossing the road, lorry bearing No. AP 07 TT 4064 proceeding towards Karimnagar, dashed the deceased. As a result, the deceased sustained injuries and was shifted to Government Hospital Huzurabad, and while undergoing treatment died at about 6.00 a.m. Police registered the case in Cr.No.224 of 2010 under Section 304-A IPC against owner of the vehicle.

4. The further case of the claimant is that deceased was aged 45 years as on the date of the accident, and was earning an amount of Rs.6,000/- by working as a coolie in a parboiled rice mill at Thummanapally village. With these averments, the claim petition was filed under Section 166 of the Motor Vehicles Act, 1988, claiming an amount of Rs.6,00,000/-.

5. The respondents 1 and 2 filed counter affidavits and disputed the manner of accident pleaded by the claimants, and also disputing inter alia the age, avocation and income of the deceased, and sought for dismissal of the claim petition.

6. The Tribunal considering the evidence of P.W.1, who is the wife of the deceased and also an eye witness, coupled with Exs.A-1 to A-5, and as no rebuttal evidence was lead by the respondents, recorded finding of fact that the accident occurred due to rash and negligent driving of the driver of the lorry bearing No. AP 07 TT 4064 and that the deceased died due to the injuries sustained in the said accident. In the light of this finding of fact based on evidence, the ground taken by the insurance company that there is contributory negligence on the part of the deceased cannot be sustained, and the same is hereby rejected.

7. Coming to quantum, the case of the claimant No.1, who is the wife of the deceased is that the deceased was aged 45 years and by working as coolie in a parboiled rice mill at Thummanapally village, was earning an amount of Rs.6,000/- per month. But, as there is no documentary evidence in this regard, the Tribunal has taken the monthly income of the deceased as Rs.3,000/- and by deducting $\frac{1}{3}^{\text{rd}}$ towards personal expenses and by applying the multiplier of 14, awarded an amount of Rs.3,36,000/- towards loss of dependency. The Tribunal further, considering the judgments of the Apex Court, granted an amount of Rs. 1,00,000/- to the 1st claimant towards loss of consortium, Rs.50,000/- to claimants 2 and 3 towards loss of love and affection of their father, Rs.25,000/- towards funeral expenses, and thus in all

awarded an amount of Rs.5,11,000/- with interest at the rate of 7.5 per cent per annum from the date of the claim petition till the date of deposit and made both the respondents jointly and severally liable to pay the compensation. The learned counsel appearing for the appellant has not pointed out any contra evidence to interfere with the quantum.

8. Thus, having regard to the facts and circumstances of the case, I do not find any reason to interfere with the impugned award, the appeal is devoid of any merit and the same is accordingly dismissed.

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

M.G.PRIYADARSINI,J

DATE:08—09—2022
AVS