
(2006) 06 AP CK 0039

In the Andhra Pradesh High Court

Case No : M.A. Appeal Against Order No. 1320 of 2006

National Insurance Company Limited

APPELLANT

Vs

Pittala Ramulu and Others

RESPONDENT

Date of Decision : 27-06-2006

Acts Referred:

Citation : (2007) ACJ 1003 : (2007) 2 ALD 12 : (2006) 5 ALT 688

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : S.A.V. Ratnam, for the Appellant; None, for the Respondent

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J.—Respondents 1 and 2 filed O.P.No. 59 of 2004 before the Motor Accidents Claims Tribunal - cum - II Additional District Judge, Karimnagar, claiming compensation for the death of their child in an accident involving an auto bearing No. AP 1T 4266. The vehicle was owned by the third respondent and insured with the appellant herein. It was pleaded that when the second respondent was travelling on 02-09-2001 in the said auto from Chelgal to Venkatapoor, it met with an accident at Medipally and the infant, by name P. Venkatesh aged about one year died. It was alleged that the accident took place on account of rash and negligent driving of the vehicle.

2. The second and third respondent filed a counter-affidavit stating that he sold the vehicle to one B. Krishnam Raju, the fourth respondent herein, on 02-08-2001. Thereupon, the said Krishnam Raju was impleaded in the O.P. and he did not file any counter.

3. The O.P. was resisted by the appellant herein. It was alleged that the appellant did not receive any information about the accident and that the driver of the vehicle did not hold valid and subsisting licence. The appellant also alleged that the claim of respondents 1 and 2 is excessive. Through its orders, dated 30-12-2005, the Tribunal awarded a sum of Rs. 1,54,500/- as compensation and

apportioned the same between respondents 1 and 2. The same is challenged in this appeal.

4. Smt. S.A.V. Ratnam, the learned Counsel for the appellant submits that the Tribunal was not justified in applying the multiplier "15" for a child of one year age. She further contends that when the child was not capable of earning any income, there was no justification for the Tribunal in taking his annual income as Rs. 15,000/-. She has urged certain other contentions also.

5. The fact that the child of respondents 1 and 2 herein died in an accident, involving the vehicle insured with the appellant herein is notion dispute. The finding recorded by the Tribunal that the death took place on account of rash and negligent driving of the driver of the vehicle is not seriously in challenge.

6. It may be true that a child of one year age cannot be expected to earn any income and it would be difficult to imagine as to what he would have been, in case he did not meet with the fatal accident. Such questions are in realm of speculation. But, it must be recognized that in the matter of awarding compensation, the issue cannot be approached in strict terms of commerce or calculations. Several contingencies have to be taken into account and, ultimately, a decent balance needs to be maintained, between the conflicting factors.

7. Though not from the standpoint view of income, the tortuous liability in such cases needs to be fixed on the touchstone of the mental agony for the parents and the future dependency upon the child. It was in this context that the Parliament had evolved the formula in the form of Schedule II of the Motor Vehicles Act (for short "the Act"). For the persons below age of 15, multiplier "15" was made applicable and where the notional income is incapable of being determined for any individual, it was fixed at Rs. 15,000/- per year. A further indication was made to the effect that 1/3rd must be deducted out of it.

8. In the instant case, the Tribunal had meticulously followed Schedule II appended to the Act by applying the multiplier "15" and taking the annual income of the deceased child at Rs. 15,000/- p.a. Hence, this Court does not find any basis to interfere with the order under appeal.

9. Hence, the appeal is dismissed. There shall be no order as to costs.