

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

M.A.C.M.A. No.882 OF 2005

-

JUDGMENT:

The 2nd respondent – insurance company is the appellant in the present appeal. The 1st respondent herein filed O.P. No.1052 of 21995 on the file of Motor Accidents Claims Tribunal cum District Judge, Nizamabad, claiming an amount of Rs.5,00,000/- for the injuries sustained by him in a motor accident that occurred on 04.11.1998 when he was coming on the side road from Sirisamunder Village towards Bichkunda. When he reached at Devada Big Village outskirts at 12.30 noon a tractor bearing No.APJ 9701 attached with trolley driven by its driver came at high speed in rash and negligent manner and caused the accident.

02. The 2nd respondent filed additional written statement before the Tribunal stating that the petitioner was travelling in a tractor bearing No. APJ 9701 which was carrying sand load and the tractor is meant for agricultural purpose. The petitioner travelled in the said tractor as unauthorised passenger. The risk of the petitioner does not cover as per the policy.

03. The Tribunal framed the issue with regard to the petitioner's entitlement for compensation and the relief for which the petitioner was entitled. The tribunal held that the accident took place only due to rash and negligent driving of the tractor bearing No.APJ 9701, and had awarded an amount of Rs.3,52,465/- along with interest @ 9% from the date of petition till realisation.

04. This appeal is filed on the ground that the petitioner was travelling as an unauthorised passenger in the tractor and the insurance company is not liable to pay any compensation for the injuries sustained by the petitioner while he was travelling as a passenger.

05. The averment of the petitioner in support of claim petition was that when he was walking on the side of the road, the tractor turned turtle and sustained injuries. When those contradictory facts were advanced before the Tribunal, the appellant should have invited a finding with regard to the manner of accident and its liability. But the appellant did not adduce any evidence, except filing a copy of the insurance policy and remand case dairy. No issue was framed and none were examined in support of the plea of the appellant. In view of the circumstances, this Court finds no ground to interfere with the order passed by the Tribunal in O.P.1052 of 1998 dated 15.09.2004.

06. Accordingly, the appeal is dismissed. No costs.

07. Miscellaneous petitions, if any, pending in this appeal shall stand closed.

A. RAMALINGESWARA RAO, J

12.11.2015

BV