

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

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M.A.C.M.A.No.1854, 1862, 1863, 1865, 1873, 1874, 1876, 1877, 1889, 1891, 1907, 1909, 1935, 1936, 2011, 2012, 2013, 2133, 2134, 2171, 2231, 2237, 2238, 2239 and 2240 of 2005

Between:

The Oriental Insurance Company Ltd.

....Appellant

and

Ramavath Ravi and others.

....Respondents

JUDGMENT PRONOUNCED ON : 30.11.2015

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

1. Whether Reporters of Local newspapers : Yes

may be allowed to see the Judgments?

2. Whether the copies of judgment may be : No

Marked to Law Reporters/Journals?

3. Whether Their Ladyship/Lordship wish to : No

see the fair copy of the Judgment?

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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**M.A.C.M.A.No.1854, 1862, 1863, 1865, 1873, 1874, 1876, 1877, 1889, 1891,
1907, 1909, 1935, 1936, 2011, 2012, 2013, 2133, 2134, 2171, 2231, 2237, 2238,
2239 and 2240 of 2005**

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COMMON JUDGMENT:

All these appeals are being disposed of by this common order in view of the appeals arising out of the common judgment passed by the Motor Accident Claims Tribunal – cum IV Additional District Judge, II F.T.C, Nalgonda, in O.P.Nos.1001 of 2002 to 1009 of 2002; 1098 of 2002 to 1102 of 2002; 1225 of 2002 and 973 of 2002 to 982 of 2002, dated 22.03.2005.

The appellant is the second respondent in the above petitions filed before the Tribunal. The claimants filed the petitions seeking a compensation of Rs.75,000/- each in all the cases for the injuries sustained by them. Their common case is that on 04.07.2002, 38 labourers attended the work in Puttamgandi executed by the first respondent company, and after completion of the work, while they were returning to their houses in the tipper bearing No.AP 24 U 2101 belonging to the first respondent, and when the said tipper reached Palugu Thanda of P.A.Pally Mandal at about 8.30 pm, the driver of the tipper drove the same in a rash and negligent manner, lost control and the tipper turned turtle. In the said accident, all the claimants received injuries. Immediately they were shifted to Community Health Centre, Deverkonda, and thereafter they took private treatment at Deverkonda. They received injuries in the course of employment. They were earning Rs.3,000/- per month from the first respondent for SLBC works in Puttamgandi. The Tribunal framed the following issues:

- “1. Whether the accident had occurred due to the rash and negligent driving of the driver of Tipper bearing No.AP 24U 2101, if so, whether the petitioner have sustained injuries in the said accident?

2. Whether the petitioners are entitled for compensation, if so, what is the quantum of amount and by whom it should be paid?

3. To what relief?

The claimants examined P.Ws.1 to 26 and marked Exs.A1 to A28 on their behalf. On behalf of the insurance company, R.W.1 was examined and Ex.B1 was marked.

With regard to issue No.1, the Tribunal came to the conclusion that the accident occurred due to rash and negligent driving of the driver of the tipper bearing No.AP 24 U 2101. With regard to the compensation, the Tribunal awarded varying amount in the respective O.Ps along with simple interest at 8% per annum from the date of the petitions till the date of award and at 6% per annum from the date of award till the date of deposit of amount or realization, by its common award dated 22.03.2005.

The first respondent – owner, did not contest the case and the second respondent, who is the appellant herein, alone contested the case. It was specifically argued before the Tribunal that as per Ex.B1, the claimants were not covered under the third party risk and hence, they are not entitled for any compensation. The Tribunal came to the conclusion that Ex.B1 – policy, was issued for the vehicle and an amount of Rs.2,488/-was collected towards premium under Clause-B liability to public basic, and hence, the claimants come under the third party risk, which is under Clause-B of schedule premium of Ex.B1. Accordingly, the Tribunal held that the owner and insurer of the crime vehicle are liable to pay the compensation jointly and severally to the claimants.

Challenging the fixation of liability on the appellant herein, the present appeals are filed.

Learned Counsel for the appellant, by relying on **New India Assurance Company Limited v. Asha Rani** and **National Insurance Company Limited v. Bommithi Subbayamma** submits that the claimants are gratuitous passengers in a goods vehicle and the insurance company is not liable to pay any compensation for such unauthorized travel.

Even though notices were served to the claimants, none appeared for the claimants.

The ratio decided by the Supreme Court in the above decisions is clear that in the case of gratuitous passengers traveling in a goods vehicle, the insurance company cannot be held liable.

In view of the above, the common award of the Tribunal dated 22.03.2005 with regard to the liability of the appellant herein is concerned, is modified and it is held that the appellant herein is not liable to pay the compensation amount, but the claimants are entitled to recover it from the owner of the tipper.

All the appeals are, accordingly, allowed. At this stage, learned Counsel for the appellant submits that the appellant deposited half of the compensation amount, and in view of their non-liability, the amount deposited by the appellant may be permitted to be withdrawn by the appellant along with the accrued interest. The appellant is, accordingly, permitted.

The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

30.11.2015

vs

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