

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY
M.A.C.M.A. No.51 OF 2014

JUDGMENT:

1. This appeal is filed under Section 173 of M.V. Act, assailing the judgment and award dated 30.08.2013 passed in O.P.No.1897 of 2009 on the file of XI Additional Chief Judge, City Civil Court, Hyderabad.

2. Heard the learned counsel for the appellant and the learned counsel for respondents No.1 to 4 and 6. In spite of service of notice, respondent No.5 did not choose to appear.

3. A perusal of the record reveals that one K. Narsinga Rao died in a Motor Vehicle accident that occurred on 23.07.2009. The parents, brother and sisters of Narsinga Rao (herein after referred to "the deceased") have filed O.P No.1897 of 2009 on the file of XI Additional Chief Judge, City Civil Courts, Hyderabad claiming compensation for the death of the deceased. The wife of the deceased alone has filed another O.P No.2092 of 2009 claiming compensation on the file of VIII Additional Metropolitan Sessions Judge-cum-XXII Additional Chief Judge, City Civil Courts, Hyderabad.

While things stood thus, the 6th respondent herein filed Tr.C.M.P.No.160 of 2012 seeking transfer of O.P.No.2092 of 2009 pending on the file of VIII Additional Metropolitan Sessions Judge-cum-XXII Additional Chief Judge, City Civil Courts, Hyderabad to be tried along with O.P.No.1897 of 2009 on the file of XI Additional Chief Judge, City Civil Courts, Hyderabad or vice versa and this Court allowed the petition on 10.04.2013 with the following observation:

"The plea of the petitioner Insurance Company is that both

the O.Ps are Motor Accident Claim Compensation O.Ps filed in respect of the death of one K. Narasing Rao who is said to have died in a motor vehicle accident. O.P.No.2092 of 2009 is filed by the widow of the deceased, i.e., K. Narasing Rao and other O.P.No.1897 of 2009 is filed by the other relatives of the said deceased. It is thus, seen that both the O.Ps arise out of the same accident. It would be, therefore, legal and proper to try both the O.Ps jointly. Both the Courts are also at the same place. In the circumstances, the M.V.O.P.No.1897 of 2009 filed by the other relatives of the deceased is transferred from XI Additional Chief Judge, City Civil Courts, Hyderabad to the Court of VIII Additional Metropolitan Sessions Judge-cum-XXII Additional Chief Judge, City Civil Courts, Hyderabad, where the wife's O.P.No.2092 of 2009 is pending."

5. The contention of learned counsel for the petitioner is that he filed a Memo before the concerned Court on 23.08.2013 intimating the order of this Court dated 10.04.2013. In spite of filing of the Memo, the tribunal passed the orders on 30.08.2013 without taking into consideration the orders passed in Tr.C.M.P.No.160 of 2012. If the Tribunal had seen the order of this Court dated 10.04.2013, it might not have disposed of O.P.No.1897 of 2009. The cause of action for filing of both the O.Ps i.e., O.P.No.2092 of 2009 and 1897 of 2009 is one and the same. The deceased is one and the same person in both O.Ps. and the claimants in both the O.Ps are parents, brother, sisters and wife of the deceased. It is just and necessary to pass common order in both the matters to secure ends of justice. Having regard to the facts and circumstances of the case, this Court is of the considered view that it is a fit case to set aside the judgment and award dated 30.08.2013 passed in O.P.No.1897 of 2009 on the file of XI Additional Chief Judge, City Civil Courts, Hyderabad.

7. In the result, the MACMA is allowed setting aside the

judgment and award dated 30.08.2013 in O.P.No.1897 of 2009 on the file of the XI Additional Chief Judge, City Civil Courts, Hyderabad. The learned XI Additional Chief Judge is hereby directed to transmit the entire record in O.P.No.1897 of 2009 to VIII Additional Metropolitan Sessions Judge, City Civil Courts, Hyderabad so as to dispose of the same along with O.P.No.2092 of 2009. There shall be no order as to costs in this appeal.

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

T.SUNIL CHOWDARY, J

Date:21-09-2015

gvl