

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A.No.2069 of 2005

JUDGMENT:

The appellants are the legal representatives of the original first petitioner in O.P.No.172 of 2000 on the file of the Motor Accident Claims Tribunal (V Additional District Judge) at Nizamabad (for short, Tribunal), who was injured in a motor accident that occurred on 23.08.1999 at about 11.30 pm when he along with his friends was proceeding on Hero Honda motorcycle bearing No.AP25E 4407 on highway No.16 to go to Kammarapally. When they reached 51/3 culvert, one jeep bearing No.ADB 1984 came from opposite direction and dashed the motorcycle, as a result of which, he fell down from the vehicle and received injuries. He was shifted to Government hospital, Nizamabad and was also admitted in Hitech Dental Clinic. He filed above OP claiming a compensation of Rs.21,21,000/-, but limited to only Rs.1,00,000/-.

2. The Tribunal framed the following issues.

- “1. Whether the accident was due to rash and negligent driving of the jeep bearing No.ADB-1984 by its driver?
2. Whether the petitioner is entitled for compensation? If so, to what amount and against which of the respondents?
3. To what relief?”

3. During the pendency of the OP, the original petitioner died and petitioners 2 to 4, who are the appellants herein, were brought on record. His wife was examined as P.W.1 and another person was examined as P.W.2. Exs.A1 to A5 were marked on their behalf. Ex.B1 was marked on behalf of the second respondent.

4. On the basis of oral and documentary evidence, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the jeep bearing No.ADB 1984. With regard to compensation, the Tribunal noticed that the original petitioner

suffered one grievous injury of loss of teeth, upper jaw, lower jaw, besides 3 other simple injuries. The Tribunal believed Ex.A.3, but disbelieved other injuries alleged to have been sustained by the first petitioner. The Tribunal disbelieved Ex.A.4 prescription issued by Sri Krishna Dental Clinic, Koratla and held that the first petitioner was entitled to a sum of Rs.5,000/- for the grievous injuries and Rs.9,000/- for 3 simple injuries. But, since the original petitioner died during the pendency of the petition, it was held that in view of the decision in **United India Insurance Company Limited, Sangareddy v. G.Kishan Rao**^[1], the legal representatives were held to be not entitled to any amount. Accordingly, the Tribunal dismissed the OP, by its award dated 03.12.2004.

5. It is clear from Ex.A.3 that the petitioner sustained one grievous injury by loss of 4 teeth from upper jaw and 2 teeth from lower jaw and 3 other simple injuries. Though the first petitioner might have undergone pain and suffering, now he is no more. The first petitioner was entitled for a compensation for the injuries sustained by him and the same can be quantified at Rs.20,000/-. There is no evidence with regard to the hospitalization or loss of earnings.

6. In the circumstances, the appeal is allowed by awarding an amount of Rs.20,000/- towards the injury sustained by the original petitioner to be payable to the appellants herein. The said amount shall carry interest at 9% per annum from the date of petition till realization. Miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

Date: 10.12.2015
TJMR

^[1] 2004 (1) ALD 626