

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

MACMANo.1855 of 2005

Date: 03-12-2015

Between:

The New India Assurance Co. Ltd.,

Represented by its Divisional Manager,

Tadepalligudem.

.... Appellant

AND

Rudru Dhana Lakshmi and 2 others

.... Respondents

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ORDER:

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The 3rd respondent in O.P.No.314 of 2004 on the file of Motor Accident Claims Tribunal-cum-IV Additional District Judge (Fast Track Court), Tanuku is the appellant herein.

The 1st respondent herein filed O.P.No.314 of 2004, claiming compensation of Rs.3,00,000/- for the death of her son in a motor accident that occurred on 10-12-2002. When her son was proceeding with the goods in a lorry bearing No.AP-16-T-5653 from Vijayawada to Suryaraopalem along with property in the lorry, the driver of the lorry drove it in a rash and negligent manner and hit the toddy tree at the road side margin. The son of the claimant who was sitting in the cabin received bodily

injury and died on the spot. The age of the son was 21 years and he was working as Clerk-cum-collection agent in Devi Finance Company, Vijayawada.

The Tribunal, basing on oral and documentary evidence, held that the accident occurred due to rash and negligent driving of the driver of the lorry.

With regard to the compensation, the Tribunal awarded an amount of Rs.2,46,402/- and held that the insurance company was not liable to pay the said compensation. But, the Tribunal held that the insurance company shall pay the compensation to the petitioner and recover the same from the owner by initiating execution proceedings. Challenging the said finding, the present appeal is filed.

There is no dispute with regard to coverage of the policy and the Tribunal came to the conclusion that the deceased was not travelling with the property and he was not the owner of the goods. In view of the said finding, the Tribunal held that the insurance company was not liable to pay the compensation. However, it directed the appellant to deposit the compensation amount and recover the same from the owner. Such a direction is not supported by any authority.

In the circumstances, the appeal filed by the 3rd respondent-insurance company can be allowed. However, this order will not preclude the 1st respondent-claimant from recovering the compensation amount from the owner of the vehicle.

Accordingly, the appeal is allowed. No costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A.

RAMALINGESWARA RAO, J

Date: 03-12-2015

