HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

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M.A.C.M.A. No.1188 OF 2005

JUDGMENT:

The instant appeal is preferred by the Oriental Insurance Company Limited, which is respondent No.3 in O.P. No.191 of 1998 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-District Judge, Anantapur District (for short, 'the Tribunal'), under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act') aggrieved by the order dated 17.01.2005 passed in the said original petition fixing liability on it, since it being the insurer of Tata Sumo bearing registration No.AP 21D 45, and also on the owner of the said Tata Sumo, who is respondent No.2 in the original petition, while exonerating the Andhra Pradesh State Road Transport Corporation (for short, 'Corporation'), which is arrayed as respondent No.1 in the original petition, from its liability. The instant appeal is preferred questioning the liability cast on the appellant herein and excluding the Corporation, despite the fact that the RTC bus bearing registration No.AP 9Z 994 was involved in the accident.

2. The appellant herein is respondent No.3, while respondent Nos.1 to 3 herein, who are the petitioner, the Corporation and the owner of Tata Sumo bearing registration No.AP 21D 45, respectively, were respondent Nos.1 to 3, respectively, in the original petition.

3. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the original petition.

4. The fact-situation occurring in the instant case is that when the deceased (elder brother of the petitioner herein) along with five other persons returning to Anantapur from Tadipatri in the said Tata Sumo on the left side of the road margin having completed the work at Tadipatri and reached Maddalapalli village, an RTC bus bearing

registration No.AP 9Z 994 came in opposite direction, driven in a rash and negligent manner and dashed against the Tata Sumo, due to which, the said Tata Sumo turned upside down and all the occupants of the Tata Sumo died instantly. The dependents of the deceased persons laid different claim petitions and the instant claim is one among them. According to the petitioner, the deceased was a Diploma Holder in Mechanical (Polytechnic) and the deceased was under his care and custody. Hence, sought Rs.1,00,000/- as compensation, stating that the deceased was working in a private company-M/s. Swapnic Industry, Jagityala, Karimnagar District prior to the date of accident and earning Rs.4,000/- per month as a salary.

5. Resistance was offered by respondent Nos.1 to 3 by raising various pleas.

6. Basing on the said pleadings, the Tribunal framed three issues about the responsibility for the accident. During enquiry, the petitioner examined himself as P.W.1 besides examining C. Chandrasekhar as P.W.2 and marked Exs.A.1 to A.5 to substantiate his claim; whereas, on behalf of the respondents, no witnesses were examined and no documents were marked.

7. The Tribunal, after recording reasons in the light of the evidence, both, oral and documentary, let in by the parties, granted Rs.55,000/- as against the claim of Rs.1,00,000/- with interest at 9% per annum from the date of petition, fastening liability on respondent Nos.2 and 3, who are the owner and insurer of the Tata Sumo and the claim was dismissed against respondent No.1-Corporation.

8. In all the claims relating to the present accident, separate awards were passed and the appeals were preferred by the Insurance Company as well as some of the claimants. One such appeal was M.A.C.M.A. No.1242 of 2005. Copy of the judgment dated 29.04.2014 passed in the said appeal is placed on record. Respondent No.3 preferred the said appeal, who is also the appellant herein, on the very same grounds as agitated in the instant appeal.

9. The contentions of the Insurance Company (appellant herein) were elaborately discussed by this Court in M.A.C.M.A. No.1242 of 2005 and confirming the findings recorded by the Tribunal, both, in regard to liability fastened on respondent Nos.2 and 3, as well as question of compensation awarded by the Tribunal. Thus, this Court had already taken a view rejecting the grounds agitated by the Insurance Company in M.A.C.M.A. No.1242 of 2005. Certainly, this Court now cannot deviate from that finding. Thus, the instant appeal is squarely covered by the decision of this Court in M.A.C.M.A. No.1242 of 2005. There is no merit in the instant appeal.

10. Accordingly, the instant appeal is dismissed. There shall be no order as to costs.

11. As a sequel thereto, miscellaneous applications, if any pending in the instant appeal, stand disposed of.

A. SHANKAR NARAYANA, J

27th October, 2015

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