

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

MACMANo.1895 of 2005

Date: 02-12-2015

Between:

United India Insurance Company Ltd.,

Represented by its Branch Manager, Suryapet,

.... Appellant

AND

Shaik Saidamma @ Saida and 5 others

.... Respondents

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MACMANo.1895 of 2005

ORDER:

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The 2nd respondent-Insurance Company in O.P.No.3 of 2004 on the file of Motor Accident Claims Tribunal-cum-II Additional District Judge, Nalgonda, is the appellant herein.

The appeal was filed challenging the award of compensation of Rs.1,92,000/- for the death of the 1st respondent herein in a motor accident that occurred on 19-03-2000 when she was going to Pasunoor along with her husband Shaik Abbas Ali on domestic work and when they reached Pasunoor bus stage, a jeep bearing No.ADW 6300, which was coming from Nagaram going towards

Thungathurthy, in high speed rashly and negligently, dashed to Saidamma and her husband. She fell down and became unconscious and she was shifted to nearby private hospital and later referred to Osmania General Hospital, Hyderabad and took treatment as Out Patient on 22-03-2000. The claim was filed for an amount of Rs.2,00,000/- and an award was passed for Rs.1,92,000/- consequent to her death after filing the claim petition by award dated 14-10-2004.

This Court verified the original record and noticed that originally O.P.No.499 of 200 was filed by the said Saidamma claiming a compensation of Rs.2,00,000/- under various heads for the injuries sustained by her. The said amount of Rs.2,00,000/- included an amount of Rs.25,000/- under Section 140 of the Motor Vehicles Act. It appears that she died after filing the O.P. and I.A.No.1197 of 2004 was filed bringing her legal representatives on record and the same was ordered on 06-02-2004. The amended copy was filed with the same claim under the same heads even after her death and the Tribunal awarded the amount taking her death into consideration without regard to the claim made by her and her legal representatives. The documents produced by the claimants were Ex.A.1-attested true copy of FIR, Ex.A.2-attested true copy of medical certificate and Ex.A.3-attested true copy of charge sheet. PW.1 is the husband of the deceased Saidamma, whereas PW.2 is stated to be an eye-witness and no doctor was examined. Ex.A.2 is the certificate issued by the Medical Officer, Community Hospital, Suryapet after examining the injured on 22-03-2000. He was also not examined. Whether the injuries mentioned in Ex.A.2 led to the death or not should have been considered by the Tribunal. The Tribunal did not consider the claim petition and also the fact whether the 1st respondent died due to the injuries sustained by her in the accident or not.

In the circumstances, the award dated 14-10-2004 in O.P.No.3 of 2004 passed by the Motor Accident Claims Tribunal-cum-II Additional District Judge, Nalgonda at Suryapet, is set aside and the matter is remanded to the Tribunal, for considering the case afresh by giving due opportunity to both parties and passing an award in accordance with law.

The appellant had already deposited half of the amount as awarded by the Tribunal including interest and the 2nd respondent was permitted to withdraw the amount to the extent of his share without furnishing any security by virtue of orders of this Court. The amount of the share of the respondents 3 to 5 was directed to be kept in Fixed Deposit in any Nationalized Bank for a period of one year. In view of the same, the amounts deposited in Fixed Deposit in respect of respondents 3 to 5 and withdrawal by the 1st respondent shall be subject to further orders to be passed by the Tribunal.

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

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RAMALINGESWARA RAO, J

Date: 02-12-2015

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