

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A.No.1097 of 2005

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JUDGMENT:

This appeal is filed by the Insurance Company against the award in M.V.O.P.No.540 of 2001, dated 29.10.2004, on the file of the Motor Vehicle Accidents Claims Tribunal, Guntur.

The first respondent herein filed the petition claiming compensation of Rs.1,00,000/- for the injuries sustained by her in a motor accident that occurred on 19/20.02.1998 while the claimant along with others was going in a lorry bearing No.AP 12 T 5072 and when a mini lorry bearing No.AP 7 T 5202 came from the opposite side and hit their lorry. The Tribunal came to the conclusion that the accident occurred due to rash and negligent driving of the driver of lorry bearing No.AP 12 T 5072. The Tribunal, accordingly, awarded an amount of Rs.93,000/- with interest @ 9% per annum from the date of the petition till realization, by its award dated 29.10.2004.

This appeal is filed on the ground that the claimant was an unauthorized and gratuitous passenger, and hence, the appellant was not liable to pay the compensation. The said plea was not taken before the Tribunal and the appellant cannot be permitted to take up that plea for the first time before this Court in the present appeal. This appeal can also be dismissed on the other ground that the owner of the vehicle bearing No.AP 12 T 5072 was not served and the appeal was dismissed for default on 04.01.2012.

In view of the above, this appeal fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

03.11.2015
vs