

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A. No.2831 of 2015

JUDGMENT:

The appellant—Insurance Company filed this appeal having been aggrieved by the Order/Award of the Motor Accidents Claims Tribunal-cum-District Judge, Mahabubnagar, (for short, 'Tribunal') in O.P.No.503 of 2008 dated 11.10.2010 awarding compensation of Rs.2,42,000/- with interest at 7.5% per annum as against the claim of Rs.3,50,000/- for the death of Bolli Pedda Sayanna, filed under Section 163-A of the Motor Vehicle Act, 1988 (for short, 'the Act').

2) The 3rd respondent/ 1st respondent to the claim petition remained ex parte before the Tribunal and since no way necessary party to the appeal even impleaded and dismissed for default, it is no way fatal to the maintainability of the appeal as per the decision of Division Bench of this Court in ***Meka Chakra Rao vs Yelubandi Babu Rao***^[1] and the same is recorded.

3) The brief averments of the claim are that on 24.04.2008 at about 2.00 pm while the deceased Bolli Pedda Sayanna and his younger brother were returning to the village from Kanchiraopalli Village after attending funerals of one of their relatives in an auto bearing No.AP 23/U 5194, when the auto reached near Sri Rangapur Cross Roads within the limits of Venkatapur Village, it was driven by its driver with high

speed in a rash and negligent manner, as a result of which, the deceased Pedda Sayanna fell down from the auto and sustained head injury and while shifting to hospital at Pebbair, he died. Thereby, the claimants 1 and 2, who are younger brother and father of deceased, filed the claim petition claiming that the deceased Pedda Sayanna aged about 42 years as on the date of accident occurred on 24.04.2008. The Tribunal found that the accident was the result of rash and negligent driving of the driver of the auto AP 23 U 5194 insured with 2nd respondent under Ex.B1 policy. The Tribunal also held that though several contentions raised by the insurer of driver not possessing valid driving licence and there is no involvement of vehicle much less any negligence, there is no evidence undisputedly adduced by the insurer but for placed reliance on the cross examination of PWs.1 and 2 and nothing even elicited from that more particularly of the eye witness PW.2 regarding manner of accident as rightly concluded by Tribunal that the accident was resulted due to negligent driving of driver of respondent No.1 insured with 2nd respondent.

4) Even coming to the quantum of compensation under Section 163-A of M.V. Act claimed, the multiplier applicable is '15' and Tribunal in fact taken the income of the deceased at 2,100/-. As per the Apex Court's expression in ***Kishan Gopal vs Lala***^[2], at page No.257, para No.39, it was observed that Rs.15,000/- provided in the schedule of the Act to be read as Rs.30,000/-. Apart from the multiplier taken by the Tribunal is 14 but for 15, then it comes to Rs.4,50,000/-

(Rs.30,000/- X 15). Therefrom, what the compensation arrived by the Tribunal of Rs.2,42,000/- is no way excessive but for utterly low and as there was no cross objections filed by the claimants, for this Court while sitting in appeal there is nothing to enhance.

5) Accordingly and in the result, the appeal is dismissed for no merits.

6) Consequently, miscellaneous petitions pending, if any in this appeal shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.25.11.2015

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Date:25.11.2015

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[\[1\]](#) 2001 (1) ALT 495 DB

[\[2\]](#) 2014 (1) SCC 244