

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

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**CIVIL MISCELLANEOUS APPEAL No.3008 of 2003
AND
CROSS OBJECTIONS (SR) No.80798 of 2003**

Between:

The New India Assurance Company Ltd.,
Rep.by its Divisional Manager, Nizamabad.

....Appellant

and

Solanki Sunder Bai,
and others.

....Respondents

JUDGMENT PRONOUNCED ON : 02.11.2015

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgments?
2. Whether the copies of judgment may be : No
Marked to Law Reporters/Journals?
3. Whether Their Ladyship/Lordship wish to : No
see the fair copy of the Judgment?

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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**CIVIL MISCELLANEOUS APPEAL No.3008 of 2003
AND
CROSS OBJECTIONS (SR) No.80798 of 2003**

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JUDGMENT:

The present appeal arises out of an award passed by the Motor Accident Claims Tribunal, Adilabad, in O.P.No.565 of 1998, dated 23.12.2002. Though the said O.P was disposed of along with three other cases, the Insurance Company preferred the present appeal only against the award in O.P.No.565 of 1998. The said O.P was filed by the mother and brother of the deceased – Solanki Amar Singh, who died in a motor vehicle

accident that occurred on 23.05.1998. The Tribunal gave a finding that the deceased died in the accident that occurred on 23.05.1998 due to rash and negligent driving of lorry bearing No.ADT 9599 and awarded an amount of Rs.1,34,000/- to the claimants along with interest @9% per annum from the date of petition till realization.

Learned Counsel for the appellant submits that the wife, who filed O.P.No.744 of 1998, received the compensation amount in W.C.No.36 of 2002, and the order passed by the Workmen's Compensation Commissioner was produced before the Tribunal as Ex.B.3. In spite of the same, the Tribunal awarded the amount to the mother and brother on the ground that there were no bonafides on the part of the appellant to deny payment of any compensation for the legal heirs of the deceased, especially to the petitioners in O.P.No.565 of 1998. So far as O.P.No.744 of 1998 filed by one Smt.S.Pantha Bai, it was held that she was not the wife of the deceased and her claim was dismissed. However, the fact remains that the appellant paid compensation to Smt.Penta Bai, who was the applicant in W.C.No.36 of 2002, pursuant to the order therein. The petitioners in O.P.No.565 of 1998 should have taken appropriate proceedings for their share of the amount, if they are entitled, but cannot independently claim any compensation from the appellant, who paid the amount by virtue of the order passed by the Workmen's Compensation Commissioner in respect of the same accident. The compensation was arrived at for the loss of earnings of the deceased and it is a total compensation that was payable due to the death of the deceased. The claimants are at the most entitled for their share of compensation from the person who received the compensation pursuant to the order of the Workmen's Compensation Commissioner.

In the circumstances, this appeal preferred by the Insurance Company is allowed leaving it open to respondent Nos.1 and 2 herein to pursue their remedies against the person who received the compensation claiming their share, if any.

In view of the above, the Cross Objections are dismissed. The miscellaneous petitions pending, if any, shall stand closed. There shall be

no order as to costs.

(A.RAMALINGESWARA RAO, J)

02.11.2015
vs