

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

M.A.C.M.A. No.999 of 2005

DATED 20TH JANUARY, 2016

BETWEEN

Sahida K and ors

...Appellants

And

B. Venkateswara Rao and anr

...Respondents.

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

M.A.C.M.A.No. 999 of 2005

JUDGMENT:

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The petitioners in MVOP.No.632 of 2000 on the file of the learned Chairman, Motor Vehicle Accident Claims Tribunal-cum-V Additional District Judge, Vijayawada are the appellants herein. They filed the aforesaid claim petition claiming compensation of Rs.15,00,000/- on account of death of one Puzhankara Illathu Kunjumuhammed Subayer, who is the husband of the first petitioner, in a motor vehicle accident that occurred on 30.08.1998. It was alleged in the claim petition that he was the owner of the Ambassador car bearing No.ADB 3692 and he undertook a journey along with his associates—Ismail and Siraj—from Kerala and when the said car reached the turning at Nagamma, the lorry bearing No. AP 16 T 1359 came in opposite direction and hit the car, as a result of which, the

husband of the first petitioner died and other inmates of the said car sustained injuries.

The first respondent is the owner of the lorry, who remained ex parte before the Tribunal. The second respondent, Insurance Company contested the claim petition stating that the deceased himself drove the vehicle (Ambassador car) at the time of accident in a rash and negligent manner and therefore the petitioners are not entitled for any compensation.

Based on the above pleadings, the Tribunal framed the following issues for settlement.

- “1. Whether the deceased Puzhankara Illathu Kunjumammed Subayar died in a motor vehicle accident on 30.8.1998 due to the rash and negligent driving of lorry bearing No. AP 16 T 1359 driven by its driver ?
2. What is the correct age and income of the deceased by the date of accident ?
3. Whether the petitioners are entitled to the compensation as prayed for: If so, from whom?
4. To what relief. ?”

The Tribunal also framed following additional issues based on the additional written statement filed by the respondents.

- “1. Whether the husband of first petitioner himself drove the Ambassador car ADB 3692 in a rash and negligent manner and dashed the opposite coming lorry bearing No. AP 16 T 1359 and caused the accident ?
2. To what relief ?”

In order to prove the claim, the first petitioner was examined herself as P.W.1, the friend of her husband who travelled in the car was examined as P.W.2 and the owner of the company in which her husband was employed was examined as P.W.3 and Exs. A.1 to A.10 and Exs. X1 and X2 were got marked on behalf of the petitioners. On behalf of the second respondent, Insurance Company, its Assistant Administrative Officer was examined as RW1 and Exs. B.1 to B.6 were got marked on its behalf.

The Tribunal took up the additional issue for consideration and noticed that certified copy of FIR in Crime No. 154 of 1998 was marked as Ex.B.3, which was also marked as Ex.A.1 by the petitioners shows that the deceased himself was driving the vehicle which was involved in the accident. The statement of Ismail, who travelled along with the deceased gave a report attributing the negligence on the part of the deceased. In the final report submitted by the police in Ex.B.2 also it was stated that the deceased was the owner of the car and he drove the vehicle in a rash and negligent manner and was responsible for the accident and as he died, the case was abated. In Section 161 statement recorded by the police in Crime No. 154 of 1998, it was stated that Siraj and Ismail, who are the inmates of the car stated that the husband of the first petitioner drove the vehicle in a rash and negligent manner and caused the accident. The wife of the deceased, P.W.1 admitted in her cross examination that her husband did not possess valid driving licence. On the basis of the evidence on record, the Tribunal came to the conclusion that the deceased husband of

the first petitioner had no valid driving licence and drove the Ambassador car in a rash and negligent manner and dashed the lorry bearing No. AP 16 T 1359 which was coming in opposite direction. Accordingly the Tribunal dismissed the claim petition. In view of the documentary evidence under Exs. A.1, A2 and B.2 and B.3, I do not see any error in the impugned Award passed by the Tribunal warranting interference in this appeal.

The MACMA is dismissed. Miscellaneous petitions pending consideration if any in the appeal shall stand closed in consequence. No order as to costs.

JUSTICE A.RAMALINGESWARA RAO

DATED 20TH JANUARY, 2016.
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