

HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A No.309 OF 2008

JUDGMENT:

The 2nd respondent—insurer among two respondents including the owner of the Hero Honda bearing No.AP 03 Q 1724, maintained the appeal impugning the award of the Tribunal dated 10.10.2007 in O.P. No.232 of 2006 on the file of Motor Accidents Claims Tribunal-cum-II Additional District Judge, Madanapalle, (for short 'the Tribunal') filed by the claimants, who are parents of the deceased by name P.Ramamohan Reddy, aged about 24 years and unmarried, under Section 166 of Motor Vehicles Act, 1988 (for short 'the Act') for a compensation of Rs.8,00,000/- for the injuries sustained in the motor accident occurred on 28.02.2006, from the contest of 1st respondent, the Tribunal found that the accident was due to rash and negligent driving of rider of Hero Honda and responsible for the accidental death of deceased rider and in the claim petition, the owner and insurer of the bike should have been impleaded and the 2nd respondent—insurer contested before the Tribunal, that it is subject to coverage of policy of the deceased is not an eye witness to the accident and since the Tribunal awarded an amount of Rs.1,47,000/- with interest at 7.5% per annum fixing joint liability against respondents 1 and 2.

2) Heard learned standing counsel for insurer and learned counsel for respondent Nos.1 and 2—claimants. Perused the material on record.

3) A perusal of the record shows PW.2 alleged as an eye witness, on whose report police registered the crime, deposed about rash and negligent driving of 1st respondent and he was cross examined by respondents and nothing elicited in favour of respondents much less to

say deceased contributed to the accident or totally at negligence even as per Ex.A1—FIR registered against the respondent No.1, Ex.A10—charge sheet filed by the police against respondent No.1. Apart from it, Exs.A8 and 9—MVI report and rough sketch respectively were also considered by the Tribunal in coming to the conclusion that the accident was the result of rash and negligent driving of opposite vehicle of 1st respondent proved from the said evidence and there is nothing to rebut much less by respondent No.1 coming to the witness box. So far as that finding concerned, there is nothing to interfere practically much less to say the deceased has contributed to the accident.

4) Coming to the exoneration sought by the insurer on the other ground of driver has no valid driving license, RWs.1 and 2 are the employee of the insurer and the Senior Assistant in the office of Regional Transport Officer. RW.2 deposed that he could not trace driving license particulars of rider of the offending vehicle for not giving any registration number. The Tribunal observed that there is nothing even in the charge sheet much less from MVI report to say that the driver of the bike in question has no valid driving licence but for raising the said ground from RWs.1 and 2 also, nothing can be demonstrated by the insurer even as to how he cannot be made liable or atleast pay and recover.

5) Having regard to the above, for this Court while sitting in appeal there is nothing to interfere but for no cross objections to enhance the compensation.

6) Accordingly and in the result, the appeal is dismissed confirming the award passed by the Tribunal. No order as to costs.

7) Consequently, Miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.31.08.2016
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Date:31.08.2016

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