

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A. No.4561 of 2008

JUDGMENT:

The claimants, who are parents of deceased Mohd. Shamsheer Miya, maintained M.V.O.P. No.214 of 2006 on the file of Motor Accidents Claims Tribunal-cum-Principal District Judge, Medak at Sangareddy (for short 'the Tribunal') against the owner and insurer of auto bearing No.AP 09/ X 8211 for a compensation of Rs.4,00,000/- under Section 166 of M.V Act (for short 'the Act') for the accidental death of deceased in the accident dated 14.03.2005. From the contest by the 2nd respondent—insurer, the Tribunal having held that the 1st respondent—owner of the auto is liable and not the insurer of the auto, awarded compensation of Rs.2,54,000/- with interest at 7.5% per annum against 1st respondent vide award dated 23.06.2008. Impugning the exoneration of the insurer, the claimants maintained the appeal.

2) Heard learned counsel for the appellants/ claimants and learned standing counsel for insurer. Perused the material on record.

3) The claim petition averments are very clear that the deceased was driver of the auto of the 1st respondent and while he was driving the auto, meanwhile another auto bearing No.AP 09 X 8211 came in opposite direction and to avoid its dash, the deceased suddenly turned his auto, due to which, his auto turned turtle and he succumbed to injuries while under going treatment. It clearly reveals that the accident occurred in the course of employment under the 1st respondent and undisputedly the vehicle insured with 2nd respondent to cover the risk. Even the FIR and charge sheet are on the same line but for a little confusion in the award of the Tribunal in saying as if 1st respondent's vehicle is opposite vehicle to the vehicle of the deceased and exonerating the insurer and fixing liability on the 1st respondent. In the facts supra including from perusal of the claim petition

averments, FIR, charge sheet when the deceased succumbed to injuries in the course of employment from the use of the vehicle, his negligence is no way criteria to claim the compensation under the W.C Act or even under Section 163-A of the M.V Act read with Section 167 of the M.V Act. Thus, the quantum is not in dispute but for exoneration of the insurer since the factual matrix supra shows the insurer equally liable to indemnify the owner.

4) Having regard to the above, the appeal is allowed while confirming the compensation and rate of interest, the award is modified from the liability of 1st respondent to the liability of both respondents i.e., owner and insurer. In other respects the award of the Tribunal holds good. No order as to costs.

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

Dt. 15.09.2016
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Dr. B. SIVA SANKARA RAO, J



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Date: 15.09.2016

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