

HON' BLE Dr. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A. No.14 of 2010

JUDGMENT:

The insurer of the accident vehicle, i.e., tractor and trailer bearing registration Nos.AP 03ABTR 8519 and AP 26T 4934, who is respondent No.2 in M.V.O.P. No.147 of 2007 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-V Additional District Judge, Tirupati (for short, 'the Tribunal') impugning the award dated 06.08.2009, whereby and whereunder, out of the claim of Rs.4,00,000/- laid under Section 166(1)(c) of the Motor Vehicles Act, 1988 (for short, 'the Act') by the two claimants, no other than the parents of the deceased, by name, E.Murali, whose death occurred in the motor accident dated 12.10.2006, the Tribunal awarded Rs.3,17,500/- with interest at 7.5% per annum and fixing joint and several liability on both the owner and insurer of the accident vehicle, maintained the present appeal mainly on the ground that the Tribunal gravely erred in fixing liability on the insurer, though there is no seating capacity on the tractor and trailer and the deceased was unauthorized passenger of the goods vehicle and there is violation of the terms and conditions of the insurance policy permitting and allowing the deceased even the worker under the owner within the meaning of Workmen's Compensation Act, 1923, for insurance policy even

covered upto six workers from the premium collected, apart from the Tribunal gravely erred in taking 1/3rd deduction as the deceased was unmarried and the Tribunal also erred in taking multiplier '15' instead of '14' as per the Schedule-II to Section 163-A of the Act from the mother's age even the claim laid under Section 166 of the Act, and, therefore, sought to reduce the compensation.

2. Heard the learned counsel on both sides at length and perused the material on record.

3. The fact that the deceased and P.W.2, co-workers under the owner of the tractor and trailer, are travelling on the tractor and trailer at the time of the accident proved from the evidence on record and the finding of the Tribunal that the accident was result of the rash and negligent driving of the driver of the tractor and trailer also proved from the evidence on record. The insurance policy covers six coolies is not in dispute as the same is proved from the evidence of R.W.1 with reference to Ex.A.6-cover note of the insurance policy. Even taken there is no seating capacity in the tractor and trailer, the insurance company being conscious in collecting the premium and not a place of sitting behind the driver on the tractor with no seating capacity, thereby, there is nothing to say that the insurer cannot be made liable for the deceased even was taken as person travelling as attender of goods of the owner, but for

the act policy otherwise covers the risk from the vehicle even under the agricultural purpose and undisputedly nothing in use for any hire or commercial purpose.

4. Now coming to the other contentions of multiplier '14' that is applicable and half of deduction towards personal expenses even taken into consideration the earnings of the deceased to be taken at the time of the accident in December, 2006 and from the expression of Latha Wadhwa vs State of Bihar¹ for minimum of Rs.3,600/- per month and taken half of the same, i.e., Rs.1,800/- as monthly earnings and then taken multiplier '14' and so also Rs.20,000/- towards funeral expenses and Rs.10,000/- towards loss of estate, what the Tribunal awarded is no way excessive and cannot be interfered with.

5. Accordingly, the present appeal is dismissed confirming the award dated 06.08.2009 passed by the Tribunal, while accepting the contentions regarding the multiplier and deduction of personal expenses and confirming the quantum of compensation and rate of interest, by upholding the award in all other respects. There shall be no order as to costs.

6. Miscellaneous petitions pending, if any, in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

18.10.2016
siva

¹ AIR 2009 SC 3218