

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.CMA.Nos.302 OF 2009 AND 1576 OF 2015

COMMON JUDGMENT:

Both these appeals would arise out of one and the same accident, but relate to two different claims.

2. The former appeal is preferred by the agencies of the State, which figured as respondent Nos.4 to 6 in M.O.P.No.844 of 2005 on the file of Chairman, Motor Accidents Claims Tribunal – cum – District Judge, Vizianagaram, aggrieved by the order and decree, dated 04.09.2008, passed in the said O.P., whereby and whereunder, for the death of one Jonnada Raju, a compensation of Rs.5,70,000/- was awarded with interest at 9% per annum to his legal heirs, who were figured as petitioners in the said O.P.

3. The latter appeal is also preferred by the agencies of the State aggrieved by the order and decree, dated 23.07.2008, passed in M.O.P.843 of 2005 on the file of Chairman, Motor Accidents Claims Tribunal – cum - II Additional District Judge, Parvatipuram, whereby and whereunder, a sum of Rs.15,000/- was granted as compensation with interest at 6% per annum for the injuries sustained by the petitioner therein.

4. The facts in brief are that on 16.12.2003, the petitioner in M.O.P.No.843 of 2005, the deceased Jonnada Raju and other staff of Primary Health Center, Tadikonda, after conducting Pulse Polio

meeting, boarded the jeep bearing registration No.AP-35-4174 hired by the department and at about 06:15 PM, when they reached near Tolukuraja road turning, since respondent No.1 – driver of the Jeep drove the jeep in a rash and negligent manner at high speed, the jeep turned upside down resulting in injuries to the petitioner in M.O.P.No.843 of 2005 and others, and the death of Jonnada Raju, whose legal heirs have preferred the former claim petition.

5. Respondent Nos.3 and 4, who are the insurer of the jeep and Medical Officer, Primary Health Centre, Tadikonda, respectively, in both the claim petitions filed separate counters, whereas respondent Nos.5 and 6, who are the Project Officer, I.T.D.A. and the State of A.P., represented by the District Collector, respectively, adopted the counters filed by respondent No.4 in both the claim petitions.

6. The Tribunals, having framed relevant issues and conducting regular trial, awarded compensation as aforementioned. Perhaps, suffice to say, at this stage, that in M.O.P.No.843 of 2005, initial liability was fastened on the Insurance Company, respondent No.3 in the claim petition, with a direction to recover the same from the owner of jeep and the agencies of State, whereas in M.O.P.No.844 of 2005, the District Judge fastened liability on respondent Nos.4 to 6, who are agencies of the State, while dismissing the claim petition so far as respondent Nos.1 to 3, who are the driver, owner and insurer of the jeep, respectively, are concerned. The Tribunal which decided

M.O.P.No.844 of 2005 was presided over by the District Judge, Vizianagaram, whereas the Tribunal which decided M.O.P.No.843 of 2005 was presided over by the II Additional District Judge, Parvatipuram. That has been the reason, conflicting orders have been passed in fastening liability.

7. During the course of arguments, when the same was brought to the notice of learned Government Pleader for Arbitration appearing for the appellants in both the appeals and Sri G. Rama Chandra Reddy, learned counsel for the Insurance Company, they came up with the submission that it is desirable to remit the matters to the Tribunals with a direction that both the claim petitions be disposed of by one and the same Tribunal to avoid conflicting decisions, so far as the liability to pay the compensation is concerned.

8. The common submission made by both the learned counsel appears to be well founded and, therefore, it is desirable to set aside the impugned orders, dated 04.09.2008 and 23.07.2008, and remit the matters to the respective Tribunals, observing that M.O.P.No.843 of 2005 on the file of Chairman, Motor Accidents Claims Tribunal – cum – II Additional District Judge, Parvatipuram, stands transferred to the file of Chairman, Motor Accidents Claims Tribunal – cum – District Judge, Vizianagaram.

9. For the reasons indicated in the above, the impugned orders, dated 04.09.2008 and 23.07.2008, are set aside and both the matters

are remanded to the respective Tribunals. M.O.P.No.843 of 2005 on the file of the Chairman, Motor Accidents Claims Tribunal – cum – II Additional District Judge, Parvatipuram, stands transferred to the file of Chairman, Motor Accidents Claims Tribunal – cum – District Judge, Vizianagaram, to enable the District Judge to decide and dispose of both the claim petitions by a common order. The District Judge, Vizianagaram, presiding over the Tribunal, is directed to decide both the O.Ps. and pass common order by affording opportunity to both sides to lead further evidence in addition to the evidence already let in by them and dispose of both the claim petitions within six (6) months from the date of receipt of a copy of this order.

10. Accordingly, the appeals are allowed. Miscellaneous Petitions, if any, pending in these appeals shall stand closed. There shall be no order as to costs.

A. SHANKAR NARAYANA, J

September 19, 2016.
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