

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

M.A.C.M.A.No.826 of 2006

JUDGMENT

This appeal is arising out of the order dated 12.09.2005 in O.P.No.1241 of 2003 on the file of Chairman, Motor Accidents Claims Tribunal (IV Additional District Judge, II FTC) at Nalgona (for short 'the Tribunal').

2. The appellant-United India Insurance Company Limited is the 2nd respondent in O.P.No.1241 of 2003 filed by the petitioners being legal representatives of the deceased Parvathamma, claiming compensation of Rs.1,50,000/-. The Tribunal has awarded the entire amount of Rs.1,50,000/-as compensation.

3. The appellant-insurance company being aggrieved by the impugned award preferred this appeal on various grounds.

4. The point for consideration is:

Whether the petitioners in O.P.No.1241 of 2003 are the dependants on the deceased and whether they are entitled for compensation of Rs.1,50,000/-?

5. **Point**

Learned counsel for appellant submits that the 1st petitioner-Kalam Mallamma is the mother of the deceased Parvathamma, but she is not dependant on the deceased as she has got two daughters and two sons and the deceased is one of the daughters. The main contention of learned counsel for appellant is that the first petitioner is aged about 80 years and is having separate family and not

dependant upon the earnings of the deceased and therefore, she is not entitled for compensation on account of the death of the deceased. The other contention of learned counsel for appellant is that the 2nd petitioner-Kalam Mallikarjun Reddy is not the adopted son of the deceased. He further submits that the petitioners have not brought on record any documentary proof that the 1st petitioner is the mother and 2nd petitioner is the adopted son of the deceased. Learned counsel has placed his contentions relying on the cross-examination of witness-P.W.1, wherein several suggestions have been made to her regarding the dependency of petitioners on the deceased and the adoption of 2nd petitioner by the deceased and all those suggestions were negatived in the cross-examination. The evidence thus remains is, chief-examination of the witness-P.W.1.

6. The insurance company has not taken any steps by adducing evidence that the 1st and 2nd petitioners are not the mother and the adopted son of the deceased and that there is no independent evidence. The burden on the petitioners is discharged as P.W.1 was examined and stated in her chief-examination the fact that the 1st petitioner is the mother and the 2nd petitioner is the adopted son of the deceased. The burden shifts to the appellant/2nd respondent to prove that they are not the mother and adopted son of the deceased. In the absence of any evidence available on record, the trial Court has rightly believed the evidence of P.Ws.1 and 2 and awarded just compensation. Therefore, I do not see any valid grounds to interfere with the order passed by the Tribunal. The point is answered accordingly.

7. In the result, the appeal is dismissed. No order as to costs.
Miscellaneous petitions, if any, pending in this appeal shall stand dismissed.

G. SHYAM PRASAD

24th November, 2016
sj

