

HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A.No.682 OF 2008

JUDGMENT:

The 2nd respondent-Insurer among the two respondents including owner of Tata Sumo bearing No. TN 01 M 3066 impugning the award dated 29.03.2007 passed by the learned Chairman, Motor Accidents Claims Tribunal-cum-IV Addl. District Judge, Tirupati (*for short, 'Tribunal'*), in M.V.O.P.No.411 of 2003 filed under Section 166 of the Motor Vehicle Act, 1988 (*for short, 'the Act'*), by the 5 claimants, no other than wife, two minor children and parents of the deceased by name G.Ashok, aged about 33 years as per the Ex.A.3 postmortem report, of the claim maintained for Rs.9,00,000/-, since awarded by the tribunal by its award dated 29.03.2007 of Rs.7,11,400/- with interest at 7.5% p.a. by fixing liability against both the respondents, preferred the appeal with the contentions in the grounds of appeal vis-à-vis submissions of the learned counsel for the Insurer-appellant that the accident itself is a false one by implication of the vehicle of the 1st respondent and P.W.2 is though not an eye witness and even not informed to the police for registering Ex.A.1 FIR and cited in the chargesheet as L.W.15 as if one of the eye witnesses, the tribunal believed the version of P.W.1 and did not properly appreciate the evidence of R.W.1-employee of the Insurer and R.W.2 the then Sub Inspector of Police. Thereby the award of the tribunal is liable to be set aside by allowing the appeal.

2. Whereas, it is the submission of the learned counsel for the claimants that the award of the tribunal holds good for this Court while sitting in appeal, there is nothing to interfere.

3. Heard and perused the material on record.

4. A perusal of the evidence on record of P.Ws.1 to 3 particularly of P.W.2 is clear that he is one of the eye witnesses but not lodged the complaint. It is the settled law that each person wrecks his own way and some, who may even witness the accident, may not choose to report to the police. Thereby that itself not a ground that too when police during investigation cited P.W.2 as L.W.15 admittedly and apart from it, the police have not filed final report against the driver of the vehicle showing the involvement of the vehicle in that accident resulting injuries to the deceased therefrom and R.W.1 also rightly or wrongly deposed about the accident. Even that is though not a substantive admission when the tribunal relied on a piece of corroboration in coming to conclusion, for this Court practically there is nothing to interfere including the quantum and rate of interest, merely because some other view is possible when that is not a ground at all when the trial Court fresh in mind of the facts recorded the evidence and appreciated and came to a conclusion therefrom.

5. In the result, the appeal is dismissed. There is no order as to costs. Consequently, miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 21.09.2016
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