

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL MISCELLANEOUS APPEAL No.2403 of 2004

JUDGMENT:

This appeal is preferred by the injured, who was the claimant in O.P.No.70 of 1998 on the file of the Motor Accidents Claims Tribunal, Prakasam District at Ongole (for short, Tribunal).

2. The appellant filed the said OP claiming a compensation of Rs.50,000/- for the injuries sustained by him in a motor accident that occurred on 28.06.1994. It was stated in the said OP that he was an agriculturist and was doing business in bricks and was earning more than Rs.3,000/- per month. On 28.06.1994 at about 8.00 pm., while the appellant was standing by the side of the road at Bitragunta, a lorry bearing No.ATS 7565 came at high speed in a rash and negligent manner and dashed the appellant, as a result of which, he sustained fracture to his right leg and other multiple injuries. He was shifted to Government Hospital, Ongole and took treatment for more than one month. Thereafter, he took treatment at Chaitanya Hospital, Ongole. The owner of the offending vehicle remained *ex parte* and the case was contested by the second respondent insurance company.

3. On behalf of the insurance company, R.W.1 was examined, who stated that the vehicle involved in the accident was not insured with the insurance company. The appellant did not file any evidence or gave any particulars with regard to the policy issued by the second respondent.

4. The Tribunal framed appropriate issues, and after examining the oral and documentary evidence, held that the accident occurred due to rash and negligent driving of the driver of the lorry bearing No.ATS 7565. With regard to compensation, the Tribunal awarded an amount of Rs.43,000/-, by its award dated 09.07.2001. The award was passed only against the first respondent – owner and held that as the risk is not

covered by the second respondent insurance company, it was not liable to pay the compensation.

5. In the circumstances of the case, this Court is not inclined to interfere with the award of the Tribunal and hence the Civil Miscellaneous Appeal is, accordingly, dismissed. Miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

Date: 09.02.2016
TJMR