

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

M.A.C.M.A.No.2279 of 2005

JUDGMENT:

This appeal is filed by the appellant/4th respondent under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), aggrieved by the award dated 07.01.2005, passed by the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge, Madanapalle, Chittoor District, in O.P.No.22 of 1993.

2. Respondents 4 and 5 herein filed the above O.P under Section 166 of the Act read with Rule 455 of the Andhra Pradesh Motor Vehicle Rules, 1989 (for short 'the Rules'), claiming compensation of Rs.1,50,000/-, on account of death of their son Maheswara Reddy in a motor vehicle accident that occurred on 25.10.1992.

3. For the sake of convenience, the parties hereinafter will be referred to as they are arrayed in the Original Petition.

4. The brief averments made in the petition are as follows:

On 25.10.1992 at about 8.30 PM when the deceased was proceeding along with others in a tractor bearing No.AP 03 8405, another tractor bearing No.AP 3J 8638 crossed the tractor, as a result of which, the deceased applied brakes. While applying sudden brakes, the trailer of the tractor which was driven by the deceased separated and fell on the left side resulting his death and causing injuries to others. It was alleged that the vehicle bearing No.AP 03 8638 belongs to the 1st respondent before the Tribunal, but the 1st respondent stated that he was not the owner of the vehicle. In those circumstances, the 4th respondent was impleaded. The Station House Officer, Vayalpad registered a case in Crime No.86 of 1992 for the offences punishable under Section 337 and 304 IPC against the 2nd respondent. The petitioners stated that the deceased was aged about 22 years and earning Rs.4,000/- per year from agriculture and by doing tractor mechanism.

5. The Tribunal framed the following issues for consideration:

1) Whether the petitioners are the legal representatives of the deceased?

2) Whether the deceased died due to the fault of the driver?

3) What is the compensation, the petitioners are entitled?

4) Which of the respondents are liable to pay compensation inter se?

5) To what relief?

6. Ultimately, the Tribunal awarded an amount of Rs.1,20,000/-but the present case of the appellant/4th respondent is that his vehicle did not cause any accident and the accident occurred due to rash and negligent driving of the vehicle by the deceased, which he was driving tractor bearing No. AP 03 8405 and the 4th respondent was not at all responsible.

7. As could be seen from the above issues no proper issue was framed with regard to the involvement of the vehicles and the vehicle which was responsible for the accident. The Tribunal gave a finding that the 2nd respondent was driving the vehicle at the time of accident and due to his rash and negligent driving only, the accident took place. The Tribunal mainly relied on the registration of the criminal case against the 2nd respondent. The Tribunal did not discuss with regard to the contribution of the deceased to the accident or involvement of the other vehicle bearing No.AP 3J 8638. The Tribunal also did not discuss the manner of the accident and the evidence of witnesses with regard to the same. Therefore, this Court is constrained to set aside the award dated 07.01.2005 and remand the matter to the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge, Madanapalle, Chittoor District to record a finding with regard to the manner of accident and involvement of proper vehicle AP 03 8405 or AP 3J 8638 and apportionment of liability, if any. The Tribunal shall consider the evidence available on record, after hearing the learned counsel for parties and dispose of the same in accordance with law within a period of three months from the date of receipt of a copy of this order.

8. With the above direction, the appeal is allowed. There shall be no order as to costs.

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

A.RAMALINGESWARA RAO,J

DATED: 19.01.2016

Kvrm

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M.A.C.M.A.No.2279 of 2005

DATED: 19.01.2016

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