

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

M.A.C.M.A.No.2413 OF 2005

JUDGMENT:

This appeal is preferred by the appellant-insurance company against the order, dated 01.11.2004 in O.P.No.356 of 2001 on the file of the III Additional District Judge-cum-Motor Accident Claims Tribunal (Fast Track Court), Anantapur (for short 'the Tribunal).

2. The appellant herein is the 2nd respondent, whereas the respondent No.1 herein is the petitioner before the Tribunal.

3. For the sake of convenience, the parties herein after will be referred to as they were arrayed before the Tribunal.

4. Petitioner filed the above O.P. claiming compensation of Rs.90,000/- for the injuries sustained by him in the accident that occurred on 01.09.2000 when he was travelling in a lorry bearing No.TN23 F6557 which was loaded with cement along with his relatives with household articles. It is alleged in the petition that he was a tailor by profession and was earning Rs.1,500/- per month. On the date of accident, when he along with his relatives were proceeding on a lorry from Sivapuram and when they reached Bondlavada Village, the driver of the said lorry drove it in a rash and negligent manner with high speed, as a result of which, he slipped and fell down from the lorry to the ground resulting grievous and simple injuries and he was shifted to the Government General Hospital, Anantapur for treatment. Hence, the claim petition.

5. The 1st respondent - owner of the lorry remained exparte and the 2nd respondent -Insurance Company filed counter mainly contending on the ground that the driver of the lorry was not having valid driving licence as on the date of accident. Therefore, it prays to dismiss the petition.

6. Basing on the above pleadings, the following issues were settled for trial:

1.Whether the accident occurred on 01.09.2000 due to rash and negligent driving by the driver of the lorry bearing No.TN 23 F 6557 and caused injuries to the petitioner?

2.Whether the petitioner is entitled to compensation and if so, to what amount and from whom?

3. To what relief?

7. The petitioner himself was examined as P.W.1 and got marked Exs.A1 to A3. On behalf of the 2nd respondent, RW.1 was examined and got marked Ex.B1-Insurance policy.

8. The Tribunal after considering the evidence on record, held that the accident was occurred due to rash and negligent driving of the lorry bearing registration No. TN 23 F 6557 by its driver and awarded an amount of Rs.29,000/- with interest @ 9% per annum from the date of filing of the petition till payment for the following injuries sustained by the claimant:

- “1. 1” x 1” abrasion over right shoulder.
 2. 3” x 3” crush injury over right scalp.
 3. 7” x 5” scaling over right upper 1/3rd of forearm.
 4. Bleeding from none.
 5. Abrasion of 3” x 2” on right hypht and right black eye part.
- X-ray report bearing No.1076/6938/1.9.00.”

9. Now the present appeal is filed by the insurance company mainly contending that the petitioner was an unauthorised passenger in a goods vehicle and that the insurance company cannot be made liable to pay compensation. Such a plea was not taken before the Tribunal. On perusal of Ex.B.1, which is a comprehensive policy, it is clear that separate premium was paid to the passengers travelling in the vehicle. In the absence of any plea taken before the Tribunal and in view of the payment of separate premium for the passengers, there are no grounds to interfere with the impugned order.

10. Accordingly, the appeal is dismissed confirming the order, dated 01.11.2004 passed by the III Additional District Judge-cum-Motor Accident Claims Tribunal (Fast Track Court), Anantapur in O.P.No.356 of 2001. No order as to costs.

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

A.RAMALINGESWARA RAO, J

DATE 19.01.2016

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DATED: 19.01.2016

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