

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A.No.2412 of 2005

JUDGMENT:

This appeal is preferred by the second respondent - insurance company in O.P.No.481 of 2000 on the file of the Court of Motor Accidents Claims Tribunal (District Judge), East Godavari at Rajahmundry (for short, Tribunal) challenging the liability to pay the compensation to the claimant.

2. Respondents 1 to 5 herein filed the said OP claiming a compensation of Rs.7,00,000/- for the death of one D.Vara Prasad in a motor accident that occurred on 26.02.2000. In the said OP, the claimants stated that said D.Vara Prasad went to Kadiapulanka on a cycle to purchase plants of various varieties for Janmabhumi Clean and Green scheme, and after purchasing the plants, he boarded a lorry bearing No.AP36T 5297 by paying Rs.150/- to the driver of the lorry towards transport charges. When the lorry reached Siddantham bridge, the driver of the lorry drove it in a rash and negligent manner and hit 8th and 9th poles of the said bridge and fell in the river Godavari, as a result of which, said D.Vara Prasad died instantaneously. The driver of the lorry also died in the said accident.

3. The appellant insurance company took a plea stating that the deceased was traveling in the lorry for Government work and the Government alone can compensate for his death. It also stated that the deceased was traveling in the lorry as against the terms of the policy.

4. The Tribunal framed the following issues.

“1. Whether Dasari Vara Prasad died in the road accident occurred on 26.2.2000 at 9 a.m. near N.H.5 road, Siddantham Bridge due to the rash and negligent driving of lorry bearing No.AP36T 5297 by the 1st respondent?

2. Whether the petitioners are entitled to any

compensation, if so, to what amount and from whom?

3. To what relief?"

5. On behalf of the claimants, P.Ws.1 to 4 were examined and Exs.A.1 to A.10 and Ex.X.1 were marked. On behalf of the respondents, R.W.1 was examined and Exs.B.1 and B.2 were marked.

6. On the basis of the oral and documentary evidence, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the lorry. The deceased was a Teacher appointed under DSC scheme. He was 27 years old at the time of his death. With regard to compensation, the Tribunal awarded an amount of Rs.2,98,000/- along with interest @ 6% per annum, by its award dated 04.04.2005, making insurance company also liable to pay compensation jointly and severally along with the owner. Challenging its liability, the insurance company filed the present appeal.

7. The learned counsel for the appellant submits that the deceased was an unauthorized passenger traveling in a goods vehicle and hence the insurance company is not liable to pay compensation.

8. The Tribunal considered the said plea raised by the insurance company and gave a finding that the deceased was a midway passenger accompanying his goods and he cannot be called as an unauthorized passenger.

9. This Court carefully perused Ex.B.1 insurance policy dated 24.01.2000 and it clearly showed that it is comprehensive policy covering the risk of passengers traveling in the vehicle. A separate premium was paid in respect of the passengers, and since the deceased was a passenger traveling in the vehicle, the insurance company cannot plead exemption from the liability.

10. In the circumstances, I do not see any reason to interfere with the Award of the Tribunal and the 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: 19.01.2016
TJMR