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THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A. No.2245 of 2005

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JUDGMENT:

The Insurance Company, which is respondent No.2 in M.V.O.P. No.1997 of 2001 on the file of the Motor Accidents Claims Tribunal-cum-Additional District Judge, Nizamabad (for short, 'the Tribunal'), is the appellant herein.

Respondent No.1 herein filed the said O.P. claiming compensation of Rs.1,50,000/- for the death of one Md.Asifuddin in a motor accident that occurred on 11.12.2000. It was alleged in the said O.P. that while the said Asifuddin was returning to his house by taking iron clothes at about 7.00 P.M. when he reached near Durga factory, an auto rickshaw bearing registration No.AP-23-T-4619 came in high speed and dashed him. In the said accident, he received multiple and grievous injuries and succumbed to the injuries in the Government Hospital, Medak. He was aged about 58 years and was earning Rs.10,000/- per month by doing business.

Before the Tribunal, the owner of auto rickshaw has filed a written statement stating that the auto was insured with respondent No.2. Respondent No.2 filed counter disputing the averments in the claim petition.

Before the Tribunal, PWs 1 and 2 were examined and marked exhibits A1 to A7. On behalf of the respondents, no oral or documentary evidence was adduced.

The Tribunal, on the basis of evidence, held that the accident occurred due to rash and negligent driving of the driver of auto rickshaw bearing registration No.AP-23-T-4619. Considering the age of deceased and his work as a labourer, the Tribunal

awarded a lumpsum amount of Rs.1,50,000/-, by its award dated 29.08.2003.

Now the present appeal is filed challenging the award on the ground that the claimant was not the natural son of deceased, but his brother's son, and hence, he was not the dependant. It was also stated that the deceased was aged about 65 years on the date of accident, but no such plea was taken before the Tribunal and no evidence was let in on those grounds.

In view of the above, this Court is not inclined to entertain the present appeal, and accordingly, the appeal is dismissed, confirming the award in M.V.O.P. No.1097 of 2001 dated 29.08.2003. No order as to costs.

Miscellaneous Petitions, if any, pending shall stand closed.

A.RAMALINGESWARA RAO, J

28.01.2016

MVA