

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A.No.2431 of 2005

JUDGMENT:

This appeal is preferred by the insurance company challenging the award dated 27.10.2004 passed by the Motor Accidents Claims Tribunal (II Additional District Judge) at Nalgonda (for short, Tribunal) in O.P.No.892 of 2001.

2. Respondents 1 to 5 herein filed the said OP claiming a compensation of Rs.2,00,000/- for the death of one T.Jablee in a motor accident that occurred on 24.02.2001. It was stated in the said OP that on 24.02.2001, when the deceased was proceedings from Kukkadam to Vemulapally Village in an auto bearing No.AP24T 8139, and when the auto reached Buggabavigudem Village on the road leading from Nalgonda to Miryalguda at about 20.00 hours, the driver of the auto drove it in a rash and negligent manner with high speed and dashed to a tractor trolley bearing No.AP24E 575. In the said accident, said T.Jablee sustained grievous injuries and succumbed to those injuries while shifting to hospital. He was aged about 35 years and was earning Rs.3,000/- per month.

3. A counter affidavit was filed by the owner-cum-driver of the auto denying his liability. The insurance company also filed a counter affidavit with the usual pleas denying its liability.

4. On the basis of the above pleadings, the Tribunal framed the following issues:

- "1. Whether the deceased (Theegala Jablee) died in the motor vehicle accident and if so whether the accident occurred due to the rash and negligent driving by the driver of the Auto bearing No.AP24T 3139?
2. Whether the petitioners are entitled to any compensation, if so, to what amount and by whom it should be paid?

3. To what relief?"

5. On behalf of the claimants (respondents 1 to 5 herein), P.Ws.1 to 3 were examined and marked Exs.A.1 to A.5. The respondents did not adduce any oral or documentary evidence, except marking Exs.B.1 and B.2 by consent.

6. The Tribunal, on the basis of the oral and documentary evidence, held that the accident occurred due to rash and negligent driving of the driver of the auto. With regard to compensation, the Tribunal awarded an amount of Rs.1,69,500/- towards compensation, by its award dated 27.10.2004.

7. The present appeal is filed challenging the said award solely on the ground that the driver of the auto was not having a valid license as on the date of accident and contending that the accident occurred on 24.02.2001, whereas the license of the driver of the auto expired on 16.07.1999. Even though it was renewed on 23.03.2001 upto 22.03.2004, the renewal was one month after the accident and hence the insurance company is not liable to pay the compensation.

8. Though Ex.B.1 original driving license was filed before the Tribunal, no effort was made by the insurance company to raise such plea either in the counter filed before the Tribunal or by way of oral arguments. In fact, no evidence was let in on the said point.

9. In the circumstances, this Court cannot entertain such a plea for the first time in the present appeal. 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: 08.02.2016
TJMR

