

HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A.No.917 OF 2008

JUDGMENT:

The 2nd respondent-Insurer among the two respondents including the owner of the lorry bearing No.AP 12 6970, impugning the award of the tribunal dated 17.05.2007 in O.P.No.730 of 2005 on the file of the learned Chairman, Motor Accidents Claims Tribunal-cum-III Addl.Chief Judge, City Civil Court, Hyderabad (*for short, 'Tribunal'*), filed under Section 166 of the Motor Vehicle Act, 1988 (*for short, 'the Act'*), by the 5 claimants, all dependants, no other than the wife, minor children and parents of the deceased G.Malli Reddy, for his death, for a claim of Rs.9,00,000/- since awarded of Rs.7,02,000/- with interest at 7.5% p.a. by fixing joint liability, preferred the appeal impugning the award of the tribunal with the contentions that the tribunal gravely erred in not considering the fact that there is violation of the policy and terms and conditions by the owner of the vehicle hired the same to the driver, under Section 157 of the M.V.Act, and the tribunal ought to have exonerated the Insurer therefrom and the same was not properly considered even the own document of the claimants covered by Ex.A.5 chargesheet and from the evidence of R.W.1 with reference to it. Hence, to exonerate the Insurer by setting aside the award of the tribunal to that extent apart from the quantum is excessive and exorbitant to reduce. Learned counsel for the appellant-Insurer reiterated the same during the course of hearing.

2. Whereas, it is the contention of the learned counsel for the claimants that the award of the tribunal holds good, there is nothing to

interfere for this Court while sitting in appeal. Hence to dismiss the appeal.

3. Heard and perused the material on record.

4. The Ex.A.5 chargesheet clearly indicates that Mr. Hussaini Lardi is only a driver but there is no evidence to show that the vehicle is hired to him to show that the conditions of the policy are violated. In the absence of which it is hardly believable much less to invoke Section 157 of the M.V. Act, either for total exoneration or to the extent of pay and recovery. Thereby there is no tenable ground on that aspect to maintain the appeal much less to interfere with the finding of the tribunal. Now coming to the quantum of compensation even taken multiplier 16 that is applicable and not 17, apart from that several conventional sums for which the claimants are also entitled, thereby the compensation granted by the tribunal is no way excessive but for low but for no cross-objections to enhance.

5. In the result, appeal is dismissed. No costs. Consequently, miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 23.09.2016
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