

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

M.A.C.M.A. No. 829 OF 2005

DATED 20TH JANUARY, 2016

BETWEEN

The Oriental Insurance Company Limited,
Rep. by its Divisional Manager, Vijayawada.

...Appellant

And

Shaik Ghouse and ors

..Respondents.

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

M.A.C.M.A.No. 829 of 2005

JUDGMENT:

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This appeal is preferred by the Insurance Company challenging the Award dated 15.10.2001 passed in OP.No.72 of 1998 by the learned Chairman, Motor Vehicle Accident Claims Tribunal-cum-V Additional District Judge, Vijayawada. The first respondent herein filed the aforesaid claim petition claiming compensation of Rs.75,000/- on account of the injuries sustained by him in a motor vehicle accident that occurred on 3.12.1994. It was alleged in the claim petition that while he was proceeding in the mini van bearing No.AP 37 U 7118 from Ramavarappadu ring to Benz circle and when the said van reached Sri Chaitanya Mahila Kalasala, it dashed front portion of lorry AIK 3105 coming in the opposite direction, as a result of which, the van turned across the road and it was completely

damaged. The first respondent/petitioner sustained multiple injuries while the cleaner of the van died on the spot.

The Insurance Company contested the claim petition on the ground that the driver does not have valid driving licence to drive the mini lorry which was classified as light motor vehicle.

Based on the above pleadings, the Tribunal framed the following issues for trial.

1. Whether the petitioner sustained injuries in a motor vehicle accident on 3.12.1994 at 4.30 a.m. on N.H.5 road , near Sri Chaitanya Mahila Kalasala, Srinagar Colony, Vijayawada due to the rash and negligent driving of lorry AP 37 U 7118 by R-1.
2. What is the quantum of compensation to which the petitioner is entitled and from whom of the respondents ?
3. To what relief ?

Before the Tribunal, the petitioner was examined as P.W.1 and Exs. A.1 to A4 were got marked on his behalf. On behalf of the respondents, R.W.1 was examined and Exs. B.1 to B.11 were got marked.

On the basis of the oral and documentary evidence on record, the Tribunal found that the accident occurred due to rash and negligent driving of the vehicle by first respondent as on the date of the accident.

The Tribunal noticed that the petitioner sustained two grievous injuries, but he did not produce any medical bills. However, taking into consideration the nature of the injuries sustained by the petitioner, nature of the treatment under took

by him and pain and suffering undergone by him, the Tribunal awarded an amount of Rs.50,000/-.

The said Award is challenged by the Insurance Company on the self same grounds which were negatived by the Tribunal. The Tribunal noticed that the driver of the vehicle was having driving licence and the repudiation of claim of compensation for damages caused to the vehicle is nothing to do to the present claim for injuries sustained by the petitioner. It was also noticed that the driver of the vehicle was none other than the son of the owner of the vehicle and he was having valid driving licence. Further Ex.B.1 policy also shows that premium was collected not only for own damage but it also covers liability to public risks and non-fare paying passengers. In view of the reasoning given by the Tribunal, this Court is not inclined to interfere with the impugned Award.

The MACMA is accordingly dismissed. Miscellaneous petitions pending consideration if any in the appeal shall stand closed in consequence. No order as to costs.

JUSTICE A.RAMALINGESWARA RAO

DATED 20TH JANUARY, 2016.

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