

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.CMA.No.2067 OF 2009

JUDGMENT:

Heard Sri A. Jagannadha Rao, learned counsel for the appellants, and Sri V. Samba Siva Rao, learned counsel for respondent No.3.

2. Respondent Nos.1 and 2, though, served with notice, none appears.

3. The present appeal is preferred by the claimants in O.P.No.338 of 2003 on the file of Motor Accidents Claims Tribunal – cum – I Additional District Judge, Vizianagaram, aggrieved by the order and decree, dated 10.11.2006, passed in the said O.P., dismissing the claim petition seeking compensation of Rs.1,70,000/- under Section 166 of the Motor Vehicles Act, 1988, for the death of one T. Ramulamma, claimed to be the wife of appellant No.1 and mother of appellant No.2, by recording certain findings and rejecting Exs.A5 and A6.

4. Perused the order under challenge and the evidence on record.

5. It is no doubt true, the appellants have marked Exs.A5 and A6, which are Death Certificate of Tompala Ramulamma issued by the Secretary, Gram Panchayat, Cheepurupalli, and Family Members

Certificate issued by the Mandal Revenue Officer, Garividi, respectively, in the direction of establishing that the person, who died in the Autorickshaw accident, was no other than the said T. Ramulamma, wife of appellant No.1, but the fact is that the Panchayat Secretary, who issued Ex.A5, was not examined by the appellants. Likewise, Ex.A6 was also not testified by any of the employees of the said M.R.O.'s office. In fact, no presumption can be drawn as to the authenticity or genuinity of the contents therein, as the appellants were obligated with the duty to prove the contents in the aforesaid documents in accordance with the evidentiary Rule, which they did not do. Besides the same, the appellants ought to have filed the Civil Supply Card or Voter Identity Card to connect the deceased with appellant No.1, as wife and husband. Thus, except the charge sheet, no other document is forthcoming. When the Tribunal has recorded a definite finding, certainly, unless it is shown as patently perverse, it would be difficult to set aside that finding. However, since the relevant witnesses were not examined, it is desirable to remit the matter to the Tribunal for affording an opportunity to both sides to lead further evidence and prove their respective cases put forth.

6. Since the claim petition relates to the year 2003, it is desirable to direct the Tribunal to dispose of the claim petition within six months from the date of receipt of a copy of the judgment herein. The Tribunal shall dispose of the claim petition uninfluenced by any

of the observations made by it in its earlier order, which is under challenge in the instant appeal, or the observations made in this judgment.

7. Accordingly, the appeal is allowed and the order and decree under challenge are set aside. The matter is remitted to the Tribunal with the directions as indicated above.

8. Miscellaneous Petitions, if any, pending in this appeal, shall stand closed. There shall be no order as to costs.

December 27, 2016.
MD

A. SHANKAR NARAYANA, J

