

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

MACMA.No.2136 of 2009

JUDGMENT:

The present appeal is preferred by the petitioner, who is the wife and the sole legal heir of one Yalamandala Naga Bhushanam, in MVOP.No.464 of 2002 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, Chittoor (for short 'the Tribunal'), against the order and decree dated 23.11.2007 passed in the said O.P., whereby and whereunder, the claim petition filed by the petitioner under Section 163-A of the Motor Vehicles Act, 1988 (for short, 'the Act'), claiming compensation of Rs.12,00,000/- for the death of her husband in a road accident, of course, on account of his own negligence as projected by the petitioner in the narration of facts, was dismissed.

Heard Sri Rajendra Bussa, learned counsel for the appellant, Sri N.V.Sumanth, learned counsel for respondent No.1 – owner of the offending vehicle, and Sri E.Venugopal Reddy, learned counsel for respondent No.2 – insurer.

In dismissing the claim petition, the Tribunal placed reliance in **Madineni Kondiah v. Yaseen Fatima and others**¹ rendered by a Full Bench of this Court touching on the aspect of transfer of a vehicle, wherein it was held that it cannot be said that the transfer is incomplete till the registration is effected in favour of the purchaser and the transfer

¹ AIR 1986 AP 62

of vehicle is governed by the provisions of the Sale of Goods Act and in the absence of agreement to the contrary, payment of price and delivery of vehicle make the sale complete and the title passes to the purchaser, and opined that the accident did occur only on account of the rash and negligent driving of the said Y.Naga Bhushanam (deceased), who lost control over the jeep and dashed a tamarind tree near P.G.Centre, Kadiri, Ananthapur main road, due to which, he received serious injuries and later succumbed to injuries while undergoing treatment in Government Hospital, Ananthapur. In fact, the claim of the petitioner was resisted by the 1st and 2nd respondents by filing counters.

The Tribunal, having framed two issues, held both the issues against the petitioner, wife of the deceased, and considering the evidence of R.Ws.1 and 2, which revealed that the vehicle was transferred from R.W.1 to R.W.2 and thereafter from R.W.2 to the deceased, even though, such transfer was not effected in the R.C., the Tribunal declined to grant any compensation to the petitioner on the main ground that the accident did occur on account of own negligence of the deceased. In fact, the claim was laid under Section 163-A of the Act, but, in view of the fact that it is typical case in hand, certainly, the mandate of Section 163-A of the Act would not come to the aid of the petitioner for grant of compensation sought. It is no doubt true, the petitioner appears to be a newly married wife of the deceased, but, certainly, that cannot be a ground to allow the appeal. Therefore, there is no merit in the present appeal.

Accordingly, the appeal is dismissed confirming the order passed by the Tribunal in all respects. There shall be no order as to costs.

As a sequel thereto, miscellaneous applications, if any pending in the instant appeal, stand disposed of.

JUSTICE A.SHANKAR NARAYANA

02nd December, 2016
v v

