

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL MISCELLANEOUS APPEAL No.1648 of 2004

JUDGMENT:

The claimants in O.P.No.99 of 1999 on the file of the Motor Accident Claims Tribunal – cum – II Additional District Judge, Kadapa at Proddatur are the appellants herein.

2. The appellants filed the said OP claiming a compensation of Rs.3,00,000/- for the death of one Petla Narayana, who is the husband of the first appellant. It was alleged in the said OP that on 31.05.1996 while said P.Narayana was travelling in a lorry bearing No.AP02V 1405 as owner of goods i.e., polished stones slabs, and when the lorry reached near Cheyyuru bridge, a lorry bearing No.APD 6885 came in opposite direction and the driver of the lorry, in which said P.Narayana was travelling, lost control of his vehicle and dashed the incoming lorry, as a result of which, said P.Narayana received injuries and succumbed to those injuries.

3. On the basis of the oral and documentary evidence, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the lorry bearing No.AP02V 1405. With regard to the compensation, the Tribunal awarded an amount of Rs.1,90,000/-, by its award dated 28.11.2003, payable by the first respondent – owner of the vehicle only. The liability of the second respondent – insurance company was denied on the ground that though the deceased was owner of the goods and was travelling

along with the goods, in the absence of separate premium in respect of the owner of the goods, the insurance company was held to be not liable.

5. When the Tribunal gave a finding that the deceased was the owner of the goods and was travelling along with the goods, there is no

separate risk that should be covered after amendment of the Motor Vehicles Act in the year 1994. The learned counsel for the insurance company also fairly admits the legal position. The finding of fact recorded by the Tribunal is in favour of the claimants with regard to the ownership of the goods by the deceased and his travelling along with goods in the vehicle.

6. In the circumstances, this Court modifies the award of the Tribunal by extending the liability to the joint and several liability of respondents 1 and 2. Regarding the quantum of compensation, in view of the age of the deceased as on the date of the accident, this Court is not inclined to modify the award.

7. Thus, the appeal is allowed to the extent of holding that the second respondent – insurance company also liable to pay the compensation amount determined by the Tribunal along with the first respondent – owner. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

Date: 09.02.2016
TJMR