

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

MACMA.NOS.433 & 478 OF 2013

COMMON JUDGMENT:

These appeals are filed by the appellant-National Insurance Company Limited against the judgment and decree, dt.11.01.2011 passed in O.P.Nos.382 & 380 of 2008 respectively, on the file of II Additional District Judge-cum-Motor Accidents Claims Tribunal, Srikakulam, wherein the Tribunal granted compensation of Rs.33,000/- and Rs.53,000/- respectively, against the claim of Rs.1,00,000/- of the respondents - claimants, for the injuries sustained by them in a motor vehicle accident.

Since common issue is involved and facts of the cases are one and the same, they are being disposed of by a common order.

The parties herein are referred to as they are arrayed in the said O.Ps.

The facts of the case in brief are that on 11.05.2005 the petitioner along with others boarded into jeep bearing No.AP 30T-7474 at Srikakulam to go to Amadalavalasa and when the jeep reached near Sanaplavanipeta on NH-5, a lorry bearing

No.AP.02-V-5024 which is coming in the opposite direction, came in a rash and negligent manner dashed against the jeep, in which the petitioners and others were travelling, as a result, the petitioners sustained serious injuries and were admitted in Government Hospital at Srikakulam and thereafter, they were shifted to KHG, Visakhapatnam, where they were treated as inpatients and subsequently, they were treated in a private hospital at Srikakulam. It is the case of the petitioners that the petitioner in M.V.O.P No.383 of 2008 spent Rs.20,000/- and the petitioner in M.V.O.P No.380 of 2008 spent Rs.30,000/- for their treatment. It is claimed by the petitioners that they were working as agricultural labourers, aged about 33 years and earning Rs.6,000/- per month. A case was registered against the driver of the lorry in connection with the accident.

Respondent Nos.1 and 2 who are the owners of the jeep and the lorry remained exparte. Respondent Nos.3 and 4 who are the insurers of the vehicles filed counter affidavits. Third respondent filed counter stating that the jeep was overloaded and the driver of the jeep carelessly crossed the road from left side to right side and he was responsible for the accident. It is also stated that the driver of the lorry has no driving licence and thereby the first respondent violated the terms of insurance

policy. Therefore, he is not liable to pay compensation to the petitioners.

The fourth respondent filed counter stating that the accident was caused by the lorry that was insured with the third respondent and as such, it is not liable to pay compensation to the petitioners.

The Tribunal basing on the evidence of PW1 and RW.1 and Exs.A-1 to A4, Ex.X-1 and Ex.B-1, granted compensation of Rs.33,000/- and Rs.53,000/- respectively against the owner and the insurer of the lorry jointly and severally . Hence, the present appeals are filed.

The learned counsel for the appellant in both the appeals submits that since the jeep was carrying 18 passengers as against the permitted strength of 5, the appellant is not liable to pay compensation. She also contends that the accident took place due to the rash and negligent driving of the driver of the jeep. As such, it is not liable to pay compensation.

Heard learned counsel for the first respondent and fourth respondent. Though notices are served on respondents 2 and 3, there is no appearance.

The trial Court came to the conclusion that the owner and insurer of the lorry bearing No.AP.02-V-5024 jointly and

severally liable to pay the compensation. The finding of the Tribunal that the driver of the lorry drove it in a rash and negligent manner is based on Exs.A-1 to A-4, certified copies of FIR, charge sheet, MVI report.

The Tribunal has taken a view and just because a different view is possible, this Court cannot interfere with the finding of Tribunal. Quantum of compensation granted is also meagre. Accident occurred in the year 2005.

In view of the above facts and circumstances, this Court is not inclined to interfere with the award of compensation by Tribunal.

Hence, the appeals are dismissed. Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

A.RAJASHEKER REDDY, J

Dt.04.01.2016
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