

HON'BLE DR. JUSTICE SHAMEEM AKTHER

MACMA No.1676 OF 2006

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), is filed by the appellants, who are the petitioners in M.V. O.P. No.150 of 2002 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-District Judge, Nizamabad, (for short, 'the Tribunal'), having got dissatisfied with the dismissal of the claim petition.

The case of the appellants is that on 11.12.2001 at 6.30 p.m. while one Panthula Rajamani was crossing the N.H.7 road of Srirampur bus stand, one lorry bearing No.AHK-7675 coming from Armour side and going towards Nirmal side gave dash to the said Panthula Rajamani, due to which he died on the spot.

The first respondent remained *ex parte*.

The second respondent filed written statement denying the averments of the petitioner, by contending that the first respondent is not the owner of the vehicle and the vehicle is not insured with the second respondent and hence, prayed to dismiss the claim petition.

Upon perusal of the material on record, the Tribunal concluded that the petitioners are not the dependants of the deceased Panthula Rajamani and dismissed the claim petition.

Aggrieved by the same, the present appeal is filed challenging the assessment of the quantum of compensation and the liability of the insurer.

Heard both sides. Perused the material on record.

In this case, the brother of the deceased and two others filed this appeal on account of death of Panthula Rajamani in a motor accident, stating that the first appellant is the brother of the deceased. The other two appellants are wife and son of the first appellant. The learned counsel for the appellant relied on the decision rendered in **Gujarat State Road Transport Corporation v. Ramanbhai Prabhatbhai and Anr.**¹, wherein the Apex Court held that a legal representative is one who suffers on account of death of a person due to a motor vehicle accident and need not necessarily be a wife, husband, parent and child. Hence, the appellants are entitled to claim compensation.

As seen from the award passed in this case, the Tribunal has not determined the compensation on account of death of Panthula Rajamani by holding that the appellants are not entitled for compensation and dismissed the claim petition.

In view of the decision rendered by the Apex Court in **Ramanbhai Prabhatbhai's** case, the Tribunal is required to determine the compensation payable to the petitioners and the liability against the respondents 1 and 2 basing on the evidence on record. Since such exercise is not made, the order under challenge is set aside and the matter is remanded back to the Tribunal for disposal in accordance with law .

In the result, the appeal is allowed by setting aside the order dated 24.01.2006 in O.P. No.150 of 2002 passed by the Chairman, Motor Accidents Claims Tribunal-cum-District Judge, Nizamabad and the case is remanded to the Chairman, Motor Accidents

¹ AIR 1987 SC 1690

Claims Tribunal-cum-District Judge, Nizamabad for enquiry and disposal, in accordance with law, within a period of three months from the date of receipt of a copy of this order. No costs.

Miscellaneous petitions, if any, pending in this appeal shall stand closed.

Dr. SHAMEEM AKTHER, J

Date: 27.01.2017
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