

THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

M.A.C.M.A. No. 347 of 2006

JUDGMENT:

Aggrieved by the Award and Decree dated 07.10.2005 passed in O.P.No.957 of 2004 on the file of the Chairman, Motor Vehicle Accident Claims Tribunal (District Court), at Warangal, the appellant filed this appeal.

2. The case of the petitioner is that on 31.5.2004 the deceased was proceeding towards Sangem on his cycle for digging the agricultural well of one Bathineni Amrutha Rao and by the time he reached near the place of accident, the Scooter bearing No.AP 36E 3307 driven by its driver in a rash and negligent manner and dashed against the cycle of the deceased in the opposite direction, as a result, the deceased sustained grievous injuries and died on the spot. The case of the petitioner is that the accident occurred only due to the rash and negligent driving of the driver of the Scooter bearing No.AP 36E 3307.

3. The Tribunal awarded compensation of Rs.1,60,000/- holding that respondents 1 and 2, the owner and the insurer, of the crime scooter, liable for payment of compensation. Being aggrieved by the order of the Tribunal, the Insurance company filed this appeal.

4. The points for consideration in this appeal are:

- (i) *Whether the award and decree passed by the Tribunal is not based on evidence?*
- (ii) *Whether the award and decree passed by the Tribunal is liable to be set aside?*

5. Heard the arguments of learned counsel for the appellant-Insurance company, and the learned counsel for the respondents-claimants.

6. Learned counsel for the appellant submits that this is a case of hit and run, and there was no eyewitness to the occurrence, and PW2 is a planted witness in this case for getting compensation. It is further submitted that the registration number of the scooter was not mentioned in the First Information Report. Two months after the accident, the registration number of the scooter was shown in the charge sheet and by planting the scooter and, therefore, sought for setting aside the award and decree passed by the Tribunal.

7. Learned counsel for the respondents submits that, after the accident, the vehicle went away and during the investigation, with the help of PW2 who was an eye witness to the accident, the police traced the vehicle and obtained the details from the RTA authorities as to who was the owner of the vehicle and registered a case against the owner of the scooter. Therefore, there is ample evidence on record to show that the scooter bearing registration number AP-36-E-0037 was involved in the accident. Learned counsel further submits that it is not a case of hit and run and, therefore, the trial Court has properly appreciated the evidence and awarded compensation.

8. At the outset, this is a case of collision between a scooter and cycle. The deceased going on a cycle was dashed by the scooter, and due to the impact of the accident he died instantaneously. When Ex.P1 was lodged, the registration number of the scooter was not mentioned, but, subsequently with the help of PW2, who was an eye witness to the

accident, the scooter was traced and a case was registered against the owner of the scooter.

9. The contention of the learned counsel for the appellant that the scooter is planted and PW2 is also not an eye witness cannot be considered in the light of the facts of the case. Immediately after the accident, the scooterist might have driven away the scooter. PW2, who is the eye witness, must have brought to the notice of the police during the investigation and subsequently after two months, the scooter was traced. Therefore, there is no force in the contention raised by the learned counsel for the appellant that the scooter is planted and PW2 is not an eye witness.

10. The Tribunal, after considering the evidence, awarded compensation of Rs.1,60,000/-. Definitely this is not a case of hit and run as the vehicle which caused the accident was traced subsequently may be after two months of the accident. Non-mentioning of the registration number of the crime vehicle does not vitiate the trial nor make the version of the claimants false.

11. Therefore, I do not see any merit in this appeal and the appeal is liable to be dismissed.

12. Accordingly, the appeal is dismissed. No costs. Miscellaneous petitions, if any pending, shall stand closed.

07th March, 2017
KSM

GUDI SEVA SHYAM PRASAD, J

THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD



M.A.C.M.A. No. 347 of 2006

07th March, 2017

ksm