

THE HON'BLE SRI JUSTICE M.S.K. JAISWAL

MACMA.Nos. 903 & 1217 of 2010

COMMON JUDGMENT:

These two appeals arise out of the common judgment dated 08.02.2010 passed in MVOP. Nos. 7 and 9 of 2006, by the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge, Nalgonda at Suryapet, which were filed in view of the injuries and the death occurred in the accident that is said to have taken place on 23.03.2005 at about 7.00 p.m. in National Highway No.9, near Goravaram village of Nalgonda district.

2. The appellant in both the appeals before this Court is the Insurance Company. In the accident that took place on the above said date and time, one Chedupaka Nagamma sustained injuries and another Smt. Mittagadupula Veeramma died. Therefore, the injured Nagamma filed O.P.No.7 of 2006, claiming compensation of Rs.1,00,000/- for the injuries sustained by her, whereas the legal heirs of deceased Veeramma filed O.P.No.9 of 2006, claiming compensation of Rs.2,00,000/-.

3. By the common order in both the petitions, the Tribunal awarded a sum of Rs.83,000/- to the legal heirs of the deceased-Veeramma, and a sum of Rs.46,435/- to the injured-Nagamma. However, there is a finding to the effect that both the deceased and the injured were traveling in the crime lorry as gratuitous

passengers and by relying upon the decisions of the Supreme Court in *Baljit Kaur's case*¹ and in *Nanjanappa's case*², the Tribunal directed the Insurance Company to pay the awarded amount to the claimants first and recover the same from the owner of the crime vehicle without filing any separate proceedings. Aggrieved by that, the present appeals are preferred by the Insurance Company.

4. Heard the learned counsel appearing for both the parties and considered the material on record.

5. The Tribunal, after taking into consideration all the material aspects into consideration, awarded the compensation, as mentioned above, which is not seriously disputed or questioned by either of the parties. Therefore, the main question that arises for consideration in these appeals is whether the direction of the Tribunal to the appellant – Insurance Company to pay the compensation to the claimants first and then recover the same from the owner of the crime vehicle is in question.

6. There is no dispute that both the deceased and the injured were traveling along with their goods in the crime lorry when the accident took place. On behalf of the appellant-insurance company, it is submitted that as both the injured as well as the deceased were traveling in the goods vehicle, there is a violation on the part of the lorry owner in allowing the passengers to travel

¹ 2004 ACJ 428

² 2004(2) ACJ 721

in the goods vehicle, which is not covered by the policy issued by the Insurance-Company. However, taking into consideration various authorities, the Tribunal has awarded the compensation and directed the Insurance company to pay the compensation to the claimants first and recovery the same later from the owner of the vehicle.

7. In this regard, a reference can be made to a recent decision of the Supreme Court in *Manuara Khatun vs. Rajesh Kr. Singh*³, wherein the Supreme Court, after referring to various authorities on the subject and also taking note of the fact that the previous reference to the Larger Bench remained unanswered, held that the direction to Insurance Company to pay and recover cannot be said to be unwarranted. In the case before the Supreme Court, the claimants were also gratuitous passengers traveling in a Tata Sumo. In view of the above, the direction of the Tribunal, based on several authorities of the Supreme Court, to pay the compensation to the claimants and recover the same from the owner, cannot be said to be erroneous. That apart, the accident took place as long as on 23.03.2005, and for the death of a woman-Veeramma, the tribunal awarded an amount of Rs.83,000/-, and for the injuries sustained by another woman-Nagamma, the Tribunal awarded a sum of Rs.46,435/-. Therefore, the award of

³ (2017) 4 SCC 796

the Tribunal does not warrant interference and the appeals are, therefore, liable to be dismissed.

8. In the result, both the appeals are dismissed, confirming the order and award passed by the Tribunal. As a sequel, the miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

M.S.K. JAISWAL, J.

June 13, 2017
Kv



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