

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

M.A.C.M.A.No.429 of 2006

JUDGMENT:

The United India Insurance Company-2nd respondent in M.V.O.P.No.557 of 2002 on the file of Motor Accident Claims Tribunal-cum-District Judge, Kadapa is the appellant in the present appeal filed under Section 173 of Motor Vehicles Act.

2. This appeal challenges the award dated 16.12.2005 passed by the Tribunal in the said MVOP on the application filed by the Respondents under the provisions of Section 166 of M.V. Act.

3. Heard the learned Standing Counsel for the Appellant-Insurance Company and Sri G.Jagadeeshwar, learned counsel, appearing for the Respondents.

4. The husband of 1st respondent and son of Respondents 2 and 3, Sri Challa Murali lost his life on 6.5.2002 while travelling in a Jeep bearing No.AP 26 U 6475, belonging to 4th respondent, which was insured with the Appellant Insurance Company. On the ground that due to rash and negligent driving of the driver of the subject jeep, the accident took place resulting in the death of the said Murali, Respondents 1 to 3 herein herein approached the Motor Accidents Claims Tribunal-cum-District Court, Kadapa, by way of application under Section 166 of M.V. Act, claiming compensation of Rs.6,00,000/- together with interest.

5. The owner of the vehicle who was arrayed as 1st respondent in M.V.O.P.No.557 of 2002 and who is the 4th respondent in the present appeal, filed a written statement, pleading therein that the subject vehicle

belonging to him was sent to Bangalore on the request of the deceased and one P.Venkateshwarlu, who are his close relatives. The owner of the vehicle in the said written statement also stated that the vehicle was used only for the own purpose and did not collect any rent either from the deceased or from the said Venkatekshwarlu and that the accident vehicle was insured with the appellant Insurance Company and at the time of accident, the policy was in force. The Appellant Insurance Company also filed a written statement, principally contending that the policy issued to the 4th respondent herein was a private Car 'B' policy and the vehicle had to be used only for personal use, but he got changed the registration of the vehicle and got the number afresh, but he did not change the private car policy. The Insurance Company also pleaded that the amount claimed was excessive. On the basis of the pleadings available on record, the Tribunal framed the following issues for trial.

- (1) Whether the deceased Challa Murali died in a motor vehicle accident on 6.5.2002 due to rash or negligent driving of R.1's jeep bearing No.AP 26 U 6475 by its driver?
- (2) Whether the petitioners are entitled for compensation and if so, to what amount and from whom?
- (3) To what relief?

6. During the course of trial, Claimant No.1 examined herself P.W.1 and also examined P.Ws.2 and 3 and marked Exs.A1 to A6 documents. On the other hand, the owner of the vehicle was examined as R.W.1 and on behalf of Insurance Company R.W.2 was examined and filed Ex.B1 Insurance policy.

7. According to P.W.2, he was an eye witness to the accident and he stated that on 6.5.2002 at about 4.00 p.m., he along with his family and the deceased boarded the jeep bearing No.AP-26U-6475 at Jadadevi village of Nellore district to go to Bangalore. He further deposed that when the vehicle reached near Moola Vanka bridge in between Kadapa and Rayachoti, at about 11 p.m. on the said date, the driver of the vehicle drove the vehicle in a rash and negligent manner in high speed and hit the wall of the bridge and as a result, the jeep fell down from the bridge and the deceased received grievous injuries and was immediately shifted to Government Hospital, Kadapa and while undergoing treatment, he passed away. According to P.W.2, he himself gave report to the police and basing on which, F.I.R.No.62 of 2002 was registered under Section 304-A of IPC. Ex.A1 is the certified copy of F.I.R. Though P.W.2 was cross-examined, nothing could be elicited in favour of the Respondent Insurance Company. R.W.1 totally supported the case of the claimants. Eventually, the Tribunal held categorically that due to the rash and negligent driving of the driver of the accident jeep, the accident took place, which resulted in the death of Mr.Challa Murali. The objection as to the failure on the part of the owner of the vehicle with regard to change of nature of the vehicle and the consequential failure on the part of the vehicle owner to inform the same to the Insurance Company, in fact, was dealt with by the Tribunal at paragraph 18 of the order. On the basis of the evidence available on record, the Tribunal came to the conclusion that the deceased was a friend of 1st respondent and was not a paid passenger. The Tribunal also recorded a finding that R.W.1 was not an eye witness to the accident and had no personal knowledge. In view of the cogent and convincing reasons

assigned by the Tribunal, this Court does not find any valid reason to meddle with the well articulated order passed by the Tribunal.

9. Accordingly, this Appeal is dismissed. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 30.11.2017
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THE HON'BLE SRI JUSTICE A.V.SESHA SAI



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