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

MACMA No.778 of 2010

JUDGMENT:

The present appeal is filed by the claimant against the orders of the learned Chairman, Motor Vehicles Accidents Claims Tribunal-cum-I Additional District Judge, Guntur in M.V.O.P.No.907/2007, dated 15.09.2009, by and under which the Tribunal awarded a total compensation of Rs.52,000/- against the claim of Rs.80,000/-.

The case of the claimant is that he is the son of the deceased Swarajyam. On the fateful day i.e. on 11.07.2007 when his mother sat on the left side road margin of the house, at about 2.30 p.m. the auto bearing No.AP7TU 663 driven in a rash and negligent manner hit his mother, as a result, his mother sustained injuries and succumbed to injuries while undergoing treatment.

The contention of the insurance company is that the accident occurred due to the negligence on the part of the deceased and that the driver of the auto did not possess a valid driving licence and hence the insurance company is not liable to pay the compensation.

The admitted case is that the deceased was a lady, aged more than 70 years and she died in the accident on the date, time and place mentioned in the petition. It is also not in dispute that the crime vehicle at the relevant time was driven by a person who does not possess valid licence. Therefore, the Tribunal has refused to fasten the liability on the 2nd respondent-Insurance Company, since it is the insured who is responsible for having entrusted the offending vehicle to a person who is not authorized to drive the vehicle, which was insured with the 2nd respondent Insurance company.

The learned counsel for the appellant submitted that simply because the driver did not possess valid licence, the liability of the insurance company cannot be absolved, and therefore, at least there should be a direction to the insurance company to pay the amount to the claimant and then recover the same from the 1st respondent.

Perusal of the record shows that the driver who drove the offending vehicle does not possess valid driving licence and it is not a case where a person driving the vehicle possessed the licence with some technical defect. Therefore, it is clear case of breach of the terms of the policy and in that event, the insurance company cannot be directed to pay the amount and recover the same from the 1st respondent. The Tribunal has given cogent and valid reasons for absolving the liability of the insurance company and directed the amount to be deposited by the 1st respondent, the owner of the offending vehicle.

With regard to quantum of compensation, the Tribunal has taken notional income of the deceased as Rs.15,000/- per annum, since there is no evidence to show the income of the deceased, and considering the age of the deceased, applied appropriate multiplier '5' and after deducting 1/3rd amount, determined the compensation, which do not warrant any interference.

Therefore, the MACMA is dismissed. No order as to costs.

M.S.K.JAISWAL,J

Date: 07.06.2017
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