

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.395 of 2014

JUDGMENT:

Questioning the liability fixed on the 2nd respondent-Insurer, being The New India Assurance Company Limited, by order dated 17.01.2013 in M.V.O.P. No.22 of 2007 on the file of the Chairman, Motor Accident Claims Tribunal-cum-District Judge, Kadapa, at Proddatur (for short, 'the Tribunal'), the present Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act').

2. By the aforesaid order, the Tribunal, awarded compensation of Rs.4,00,000/- with interest at 7.5% per annum, fixing joint and several liability on the respondents 1 and 2, who are the owner and the Insurer, for the death of one Kandukuri Venkata Rama Reddy, who is the husband of the 1st petitioner and father of the petitioners 2 to 4 and petitioner No.5 is the mother of the deceased.

3. Heard Sri A. Ramakrishna Reddy, learned counsel for the appellant and Sri Ramesh Babu Vishwanatham, learned counsel for the respondents 1 to 5. No representation for the 6th respondent.

4. For the sake of convenience, the parties hereinafter be referred to as arrayed before the Tribunal.

5. The main submission of the learned Standing Counsel for the appellant is that in a connected matter in MVOP No.252 of 2005 the learned V-Additional District Judge (FTC), Kurnool at Nandyal dismissed the claim against the petitioner therein in the same accident on the ground that the driver did not possess any valid licence and exonerated the Insurance Company, and, in fact, the evidence of R.W.1 and Es.B1 to B4 would clearly prove that the driver did not possess valid licence at all to drive the accident vehicle, and, therefore the tribunal completely erred in fastening the liability on the Insurance Company.

6. The learned counsel for the respondents 1 to 5/claimants resisted the request supporting the order passed by the Tribunal.

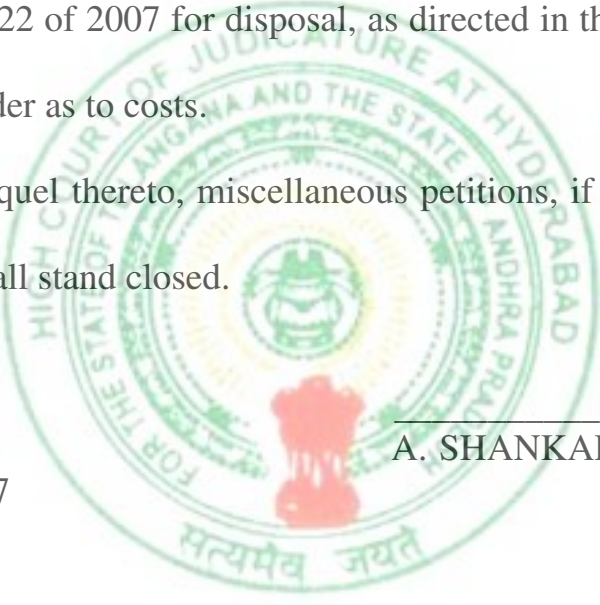
7. When the award and decree passed by the MACT-cum-V-Additional District Judge (FTC) in MVOP No.252 of 2005, exonerating the Insurance Company, which claim arises out of one and the same accident, the learned Chairman in the present MVOOP No.22 of 2007, against which the present appeal is directed, certainly, obligated with the duty to examine, intrinsically, the award and decree passed in MVOP No.252 of 2005 and ought to have passed an order.

8. Without entering into the arena of merits, it is desirable to remit the matter to the learned Tribunal to examine the effect of Exs.B3 and B4 and to dispose of the present MVOP No.22 of 2007 in the light of the legal principles laid down by the Hon'ble Apex Court,

within six months from the date of receipt of a copy of the order. If any amount is deposited by the appellant and withdrawn by the respondents. The same is subject to the result of M.V.O.P. No.22 of 2007 and the learned Chairman to pass appropriate order thereon.

9. The present M.A.C.M.A. is, therefore, allowed setting aside the Award and decree dated 17.1.2003 in M.V.O.P. No.22 of 2007 passed by the Chairman, Motor Accidents Claims Tribunal-cum-II-Additional District Judge, Kadapa at Proddatur and remanding M.V.O.P. No.22 of 2007 for disposal, as directed in the above. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the Appeal shall stand closed.



A. SHANKAR NARAYANA

Dt. 26.10.2017
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