

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

MACMA No. 982 of 2010

JUDGMENT:

This appeal is preferred by the appellant/ Insurance Company against the Order and Decree of the Chairman, Motor Accidents Claims Tribunal-cum-IV Additional District Judge (FTC) Karimnagar, dated 10.04.2006 in O.P.No.615 of 2004, by and under which the Tribunal granted a compensation of Rs.50,000/- under 'no fault liability' for the death of one Mandala Raji Reddy in that accident that took place on 19.5.2004, near Mallaram shivar on Rajiv Rahadari road of Karimnagar district.

2. The brief facts of the case are that the Petitioners/ Claimants are the wife and parents of the deceased Raji Reddy, who was a businessman and owner of the Lorry bearing No.AP1U-6956. On 19.05.2004, the deceased and his driver-Respondent No.4 in the appeal started from Mancherla along with cement load in the lorry to go to Karnataka State and when they reached near Mallaram shivar, the driver of the lorry drove the lorry in a rash and negligent manner with high speed and dashed against Tamarind Tree, situated at left side of the road, due to which the deceased received grievous injuries and died while shifting to the hospital. Hence, the claim by the legal heirs of the deceased.

3. The Insurance Company/ Appellant herein denied the said claim contending that the deceased himself was the owner of the vehicle and violated the contract of insurance. Therefore, the

claimants are not entitled for any compensation, as the insurance policy covers the risk of a third party only, but not the owner of the vehicle.

4. The Tribunal, after hearing both sides and considering the entire evidence on record, opined that the deceased, who was the owner of the lorry, was traveling in the lorry as co-driver, since the lorry carrying cement load to a long distance at Karnataka, and thus granted the compensation under no-fault liability. Hence, the present appeal by the Insurance Company.

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

6. The manner and method in which the accident took place, the date and time of the accident, the ownership of the lorry by the deceased and it's insurance with the appellant are not in dispute. A perusal of the record shows that the claimants were claiming compensation for the death of the deceased, who was traveling in the lorry of which he was the owner. A perusal of the insurance policy, Ex.B-1 shows that the deceased has paid an additional amount of Rs.100/- to cover the risk of the owner-cum-driver. The accident took place due to the rash and negligence of the driver of the lorry, which is said to have dashed against a tree and which resulted in the death of the deceased-owner. Since the insurance policy covers the risk to the owner of the vehicle, the Tribunal has awarded a compensation of Rs.50,000/- under no-fault liability. The

claimants are none other than the legal representatives of the deceased. Therefore, the award of the Tribunal cannot be said to be erroneous and contrary to the provisions of the Motor Vehicles Act, since an additional premium was paid. The Tribunal also considered the rival contentions and the citations relied upon by the Insurance Company, and held that the Insurance Company is liable to pay the compensation to the legal representatives of the deceased/ owner of the lorry. Upon reconsidering the same, I see no merit in the appeal and the same is liable to be dismissed.

7. In the result, the appeal is dismissed, confirming the order and decree of the Tribunal under appeal. As a sequel, the miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

Dt.24.07.2017

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M.S.K. Jaiswal,J.



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Dated: 24.07.2017

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