

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3528 of 2005

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), by the appellant-Insurance company aggrieved by the order dated 11.10.2002 in O.P.No.1524 of 2000 on the file of the Motor Accident Claims Tribunal-cum-III Additional Chief Judge, City Civil Court, Hyderabad (for short 'the Tribunal').

2. Heard the learned counsel for appellant-Insurance Company and perused the record. The appeal against 1st respondent was dismissed for default on 06.01.2012. There is no representation for the 2nd respondent-owner.

3. The learned counsel for appellant-Insurance Company would contend that the claimant is a gratuitous passenger in the offending lorry bearing registration No.CHSD 39311. The Tribunal erroneously fastened the liability against the appellant-insurance company. He also contended that the grant of compensation of Rs.20,000/- is exorbitant. He relied on the decision rendered in *New India Assurance Company Limited v. Asha Rani and others*¹ case and ultimately, prayed to set aside the impugned order.

4. In view of the submissions made by the learned counsel for the appellant-insurance company, the points that arise for determination are as follows:-

1. Whether the compensation granted by the Tribunal is excessive?
2. Whether the Tribunal erred in fastening the liability against the appellant-insurance company?

5. There is no dispute with regard to the appellant suffering injuries in a motor accident that occurred on 16.03.1998 due to the

¹ 2003(2) SCC 223

rash and negligent driving of the driver of tractor bearing registration No.CHSD 39311.

6. POINT No.1:- The Tribunal while dealing with the claim petition elaborately dealt with the grievous and simples injuries suffered by the appellant with reference to the oral and documentary evidence and rightly granted compensation of Rs.20,000/-, which is just and reasonable. There are no circumstances to interfere with the same. Point No.1 is answered accordingly.

7. POINT No.2:- As per the decision rendered in *New India Assurance Company v. Satpalsingh and others*², the gratuitous passenger is entitled for compensation from the owner as well as insurer of the offending vehicle jointly and severally. The decision rendered in *Asharani's* case was rendered in December, 2002 and it is prospective in nature. In the instant case, the decision rendered in *Satpal Singh's* case holds good. In view of the same, the Tribunal is justified in directing the insurer and the owner of the offending vehicle to pay the compensation jointly and severally. There was valid policy of insurance on the date of occurrence of accident under Ex.B1. Therefore, the appeal is devoid of merit and it is liable to be dismissed. Point No.2 is answered accordingly.

8. In the result, the appeal is dismissed.

The Miscellaneous Petitions, if any, pending shall stand closed.

Dr. SHAMEEM AKTHER, J

Date: 17.09.2018
ssp

² 2000 SAR (Civil) 140