

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1037 OF 2015

JUDGMENT:

This is an appeal filed by the insurance company aggrieved by the orders dated 16.08.2013 passed by the learned Chairman-Motor Accidents Claims Tribunal-cum-I Additional District Judge, Srikakulam, in M.V.O.P.No.603 of 2011.

The Court below as against the claim of Rs.8.00 lakhs, awarded an amount of Rs.4,76,000/- with interest at 7.5% p.a., from the date of petition, i.e. 21.12.2011 till the date of deposit, in favour of the claimants, who are the dependants of the deceased, who died in the road accident occurred on 27.12.2010. Respondents 1 to 3 are jointly and severally liable to pay the compensation. Aggrieved by the said order, the third respondent insurance company preferred the present appeal.

The vehicle involved in the accident was tractor having hydraulic facility with trailer bearing Nos.AP 30-U-8499 and AP 30 V 0831 and the deceased working as kalasi for loading and unloading purpose on the tractor loading gravel was subjected to accident and sustained serious injuries and died. The Court below though appreciated the grounds contended by the insurance company with regard to the driver of the vehicle was unlicensed and the goods vehicle is not supposed to carry persons, it cannot be denied that once it is a goods vehicle for the purpose of loading and unloading, the kalasi is required and accordingly they are permissible and thus, the deceased was on the vehicle as not as a public transport but to attend the

requirements of the goods vehicle. More over, it is not established in the evidence whether the hydraulic system was effectively functioning or not. So, in the absence of the same, the order passed by the court below is confirmed while dismissing the appeal and modification is made to the effect to pay the compensation and the same was recovered from the respondents 1 and 2, driver and owner of the vehicle involved in the accident, since the driver of the vehicle is unlicensed.

Hence, the appeal is allowed modifying as indicated above. Miscellaneous petitions pending, if any, shall stand dismissed. No order as to costs.

Date: 06.12.2018
Rns

T.AMARNATH GOUD, J

