

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2816 of 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity) is filed by the appellants-claimants, challenging the order, dated 18.07.2005, passed in O.P.No.312 of 2003 by the Chairman, Motor Accident Claims Tribunal-cum-I Additional District Judge, Vizianagaram, whereby, their claim petition for grant of compensation of Rs.1,00,000/- for the death of deceased-K.Veerayya, was dismissed.

2. Heard the learned counsel for the appellants-claimants. In spite of service of notice on the respondents 1 and 2/RTC, there is no representation on their behalf. This appeal is of the year 2005. Hence, this appeal can be disposed of basing on the material available on record, without waiting for the learned Standing Counsel for RTC to advance arguments.

3. The learned counsel for appellants-claimants would contend that the deceased-K.Veerayya suffered grievous injuries in the motor accident occurred on 08.07.2002. An O.P. was filed before the Tribunal claiming a compensation of Rs.1,00,000/-. During the pendency of the impugned O.P., the deceased succumbed to the injuries. The appellants-claimants, who are the wife and daughters of the deceased K.Veerayya, got impleaded in the O.P. There is record to believe that the deceased succumbed to the injuries suffered by him in the subject accident. There is oral and documentary evidence to substantiate the same. The Tribunal discarded the evidence on record and did not grant any

compensation. Dismissal of the claim petition by the Tribunal is erroneous and ultimately prayed to grant compensation as claimed.

4. In view of the above submissions, the only point that arises for consideration in this appeal is whether the Tribunal is justified in dismissing the claim petition filed by the appellants-claimants by way of impugned order.

5. Except the oral evidence of P.W.1 (wife of the deceased), there is no other oral evidence on behalf of the appellants-claimants. Through her evidence, Ex.A.1-True copy of FIR in Crime No.36/02 of Ramabhadrapuram Police Station, Ex.A.2-True copy of Wound Certificate, Ex.A.3-True copy of MVI Report, Ex.A.4-Death Certificate of the deceased, Ex.A.5-True copy of charge-sheet and Ex.A.6-O.P. Chit were marked. The Tribunal, while determining the issues framed by it, held that the deceased suffered two grievous injuries on 08.07.2002 in the subject accident, due to rash and negligent driving of the driver of the RTC bus bearing registration No.AP-10-Z-4606. The Tribunal further held that the death of the deceased was not due to the accidental injuries and that there is no nexus between the injuries sustained in the subject accident and the death of the deceased and ultimately dismissed the claim petition. Ex.A.2-Wound Certificate reveals that the deceased suffered contusion on the left foot and a lacerated injury on the left middle toe. These two injuries are simple in nature. Moreover, the injuries were not on the vital organs of the body. Generally, these injuries would not be sufficient to cause death. When the injuries are of such nature, there would not be much medical expenses and other related expenses. As per the record, the deceased died on

19.01.2003, which has no nexus with the injuries surfed by him in the subject accident. The Tribunal rightly held the same. When there is no record to show the medical expenses and other consequential expenses incurred by the deceased for the injuries suffered by him in the subject accident, the Tribunal justified in dismissing the claim petition of the appellants-claimants. In the circumstances of the case, it is not proper to take a different view and accept the contentions made on behalf of the appellants-claimants. The appeal is devoid of merit and is liable to be dismissed.

6. In the result, the appeal is dismissed confirming the order, dated 18.07.2005, passed in O.P.No.312 of 2003 by the Chairman, Motor Accident Claims Tribunal-cum-I Additional District Judge, Vizianagaram. No costs.

Miscellaneous Petitions pending, if any, shall stand closed.

07th August, 2018
Bvv

Dr. SHAMEEM AKTHER, J