

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3526 OF 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant/the Oriental Insurance Company Limited challenging the order, dated 01.11.2002, passed in O.P.No.676 of 1997 by the learned Chairman, Motor Accident Claims Tribunal – cum – II Additional District Judge, West Godavari District, Eluru (for short, “the Tribunal”).

2. Heard the submissions of the learned Standing Counsel appearing for the Oriental Insurance Company Limited representing the appellant and the learned counsel for respondent No.1/claimant, and perused the material on record.

3. In para No.12 of the impugned order, the Tribunal recorded a finding that the appellant/respondent No.3 is at liberty to recover the amount, if paid, from respondent No.2 therein, who is the owner of the offending lorry bearing No.AP-9-U-6557. But, in the operative portion of the impugned order, there is no mention with regard to that direction and it is directed that all the respondents therein shall pay the compensation awarded jointly and severally. Therefore, there is an inconsistency. Further, the Tribunal had not recorded a clear finding with regard to the valid policy of insurance of the offending vehicle i.e., lorry bearing No.AP-9-U-6557.

4. As far as the assessment and award of compensation is concerned, there is no infirmity. The Tribunal is justified in assessing and awarding a total compensation of Rs.35,200/- with

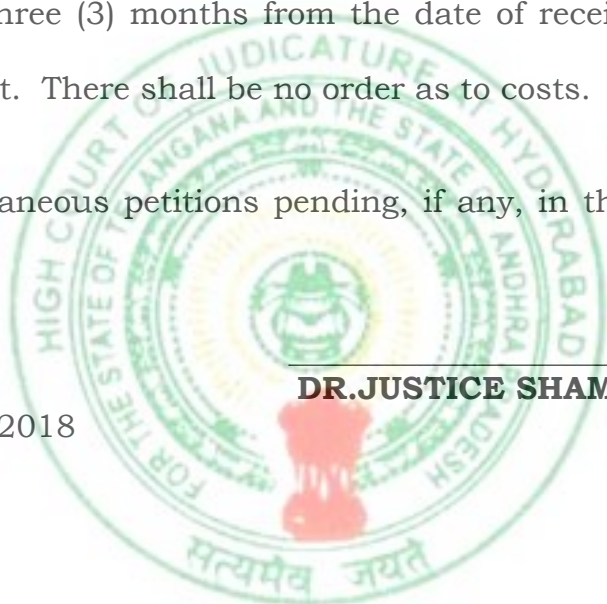
proportionate costs and interest at the rate of 9% per annum from the date of petition, as against a claim of Rs.1,00,000/-. Hence, the impugned order to the extent of determining the liability of the appellant/respondent No.3 is set aside.

5. Accordingly, the appeal is allowed and the matter is remanded to the Tribunal. The Tribunal shall complete the exercise of determining the liability of the appellant/respondent No.3 with reference to the policy of insurance marked as Ex.B-1 as well as Ex.A-6, after affording an opportunity to both sides, within a period of three (3) months from the date of receipt of a copy of this judgment. There shall be no order as to costs.

6. Miscellaneous petitions pending, if any, in this appeal shall stand closed.

DR.JUSTICE SHAMEEM AKTHER

Date : 11.09.2018
AMD



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