

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2659 of 2006

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant/The New India Assurance Company Limited, aggrieved by the grant of compensation of Rs.2,64,000/- as against a claim of Rs.5,00,000/- to the respondents 1 to 3/claimants, by the Chairman, Motor Accident Claims Tribunal-cum-I Additional Chief Judge, City Civil Court, Secunderabad ('the Tribunal', for brevity), vide order, dated 28.06.2006, passed in M.V.O.P.No.85 of 2001.

2. Heard the learned Standing Counsel for appellant-Insurance Company and perused the record. There is no representation for the respondents 1 to 3/claimants. This appeal is of the year 2006. Hence, this appeal can be disposed of on merits without waiting for the learned counsel for the respondents 1 to 3/claimants to advance arguments.

3. The learned Standing Counsel for the appellant-Insurance Company would contend that the offending vehicle bearing registration No.AP-09-W-1764 was hired with APSRTC for the purpose of pubic transport. While the offending vehicle was under hire with APSRTC, the subject accident occurred. The Tribunal determined the compensation payable to the respondents 1 to 3/claimants as Rs.2,64,000/- and awarded the same with interest at the rate of 7.5% per annum, without there being just and reasonable assessment and without there being a

valid policy of insurance and payment of additional premium. The Tribunal erroneously fastened the liability on the appellant-insurance company. In the circumstances of the case, the Tribunal ought to have fastened the liability on APSRTC only and ultimately prayed to set aside the impugned award passed by the Tribunal against the appellant-Insurance Company.

4. It is not in dispute that the deceased-D.V.K.Malik died in a motor accident that occurred on 22.08.2000 due to the rash and negligent driving of the driver of the bus bearing registration No.AP-09-W-1764, which was hired by APSRTC. The respondents 1 to 3/claimants are the legal heirs of the deceased. The Tribunal assessed the compensation under different heads and ultimately granted Rs.2,64,000/- as against a claim of Rs.5,00,000/-. It is not in dispute that the offending vehicle was insured with the appellant herein. As per the evidence on record, there is no violation of conditions of the insurance policy, particulars of the driver of the offending vehicle was possessing valid driving licence. When the offending bus was insured with the appellant-Insurance Company, certainly the insurer, along with the hirer (APSRTC) of the bus, are jointly and severally liable to pay compensation to the respondents 1 to 3/claimants. In view of the above, all the respondents in the subject M.V.O.P.No.85 of 2001 are jointly and severally liable to pay compensation to the dependants of the deceased, i.e., the claimants in the O.P. The compensation awarded by the Tribunal is just and reasonable. There is no need to take a different view.

5. In the result, the appeal is dismissed.

Miscellaneous Petitions pending, if any, shall stand closed.

No order as to costs.

Dr. SHAMEEM AKTHER, J

14th June, 2018
Bvv

