

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2252 of 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity) is filed by the appellant/the United India Insurance Company Limited, challenging the order, dated 20.02.2003, passed in M.V.O.P.No.108 of 1999, by the Chairman, Motor Accident Claims Tribunal-cum-Principal District Judge, Medak at Sangareddy.

2. Heard the learned Standing Counsel for appellant-Insurance Company and perused the record. There is no representation for the 1st respondent/claimant. This appeal is of the year 2005. Hence, it can be disposed of basing on the material available on record, without waiting for the learned counsel for the 1st respondent/claimant to advance arguments.

3. The learned Standing Counsel for the appellant-Insurance Company would contend that the 1st respondent/claimant and two other persons were triple-riding on the motor cycle at the time of the accident, which is in violation of Section 128 of the Act. The Tribunal ought to have held that there was contributory negligence in the occurrence of the accident. It erroneously held that the accident occurred due to rash and negligent driving of the driver of the lorry bearing registration No.ATT-1536 and erroneously directed the insurer of the said lorry to deposit the compensation assessed. Grant of compensation of Rs.40,000/- is excessive and ultimately prayed to allow the appeal by setting aside the Order under challenge.

4. Though the appellant-insurance company contended that there was rashness and negligence on the part of the 1st respondent/claimant in driving the motor cycle, no record is placed on record to substantiate the same. The ocular and the documentary evidence on record reveal rashness or negligence on the part of the driver of the lorry bearing registration No.ATT-1536. Merely because the 1st respondent/claimant and two other persons were (triple) riding on the motor cycle, it cannot be held that there was contributory negligence, as contended. Further, the Tribunal awarded medical expenses to a tune of Rs.22,000/- relying on the medical bills, Rs.15,000/- for the injuries sustained and Rs.3,000/- towards pain and suffering, to the 1st respondent/claimant. The assessment, calculation and grant of compensation of Rs.40,000/- in favour of the 1st respondent/claimant cannot be faulted. The contentions raised on behalf of the appellant-Insurance Company do not merit consideration. The appeal is devoid of merit and is liable to be dismissed.

5. In the result, the appeal is dismissed. No costs.

Miscellaneous Petitions pending, if any, shall stand closed.

04th July, 2018
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Dr. SHAMEEM AKTHER, J