

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3340 OF 2005

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the appellant-claimant aggrieved by the order dated 29.10.2004 in M.V.O.P.No.323 of 2003 on the file of the Motor Accident Claims Tribunal-cum-III Additional District Judge, Kurnool at Nandyal (for short 'the Tribunal').

2. Heard the learned Standing Counsel for 2nd respondent-Insurance Company and perused the record.

3. Though the matter is posted 'for orders', there is no representation for the appellant-claimant and 1st respondent-owner. This appeal pertains to the year 2005. Hence, it can be disposed of on merits basing on the material available on record.

4. Learned Standing Counsel for the respondent-Insurance Company would contend that the Tribunal had exonerated the insurance company from paying the compensation on the ground that there was no coverage of insurance. The Tribunal justified in doing so. There are no circumstances either to enhance or to fasten the liability against the respondent-insurance company and ultimately prayed to dismiss the appeal.

5. As seen from the grounds of appeal, this appeal is filed contending that the finding of the Tribunal is contrary to the facts and law. The deceased was engaged as daily labour to load the stones. The said aspect was not considered by the Tribunal. The appellant-wife had claimed just and reasonable compensation of Rs.1,50,000/-

and ultimately prayed to allow the same against the respondents jointly and severally.

6. The Tribunal while dealing with the subject matter of the claim had analysed the application of the decision rendered in *M/s.National Insurance Company Limited vs. Baljit Kaur and others*¹ and held that a gratuitous passenger travelling in the goods vehicle is not entitled for compensation from the insurance company though there is a policy of insurance. As per the material placed on record, the deceased was a gratuitous passenger died in a motor accident that occurred on 31.08.2002 due to the rash and negligent driving of the tractor and trailer bearing No.AP-7L-1866 and 1867. Therefore, the Tribunal rightly exonerated the liability against respondent No.2-Insurance Company. Hence, there is no infirmity in the impugned order. The appeal is devoid of merit and is liable to be dismissed.

7. In the result, the appeal is dismissed.

The Miscellaneous Petitions, if any, pending shall stand closed.
No costs.

Date: 21.08.2018
ssp

Dr. SHAMEEM AKTHER, J

¹ AIR 2004 SC 1340