

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2753 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 20.06.2005, passed in O.P.No.306 of 1999, by the Chairman, Motor Accident Claims Tribunal-cum-V Additional District Judge, Nizamabad ('the Tribunal', for brevity), whereby, the claim petition of the appellants-claimants claiming a compensation of Rs.3,00,000/-, was dismissed.

2. Heard the learned counsel for both sides and perused the record.

3. The learned counsel for the appellants-claimants would contend that the Tribunal had erroneously dismissed the claim petition filed by the appellants-claimants for grant of compensation of Rs.3,00,000/-, on account of death of the deceased-Shaik Ali in a motor accident occurred on 10.05.1998, due to rash and negligent driving of the driver of the lorry bearing registration No.AP-25-T-5515. The Tribunal ought to have granted compensation and ultimately prayed to grant compensation as claimed.

4. On the other hand, the learned Standing Counsel for the 2nd respondent-Insurance Company would contend that the Tribunal rightly dismissed the claim petition holding that the appellants-claimants filed another claim petition under the

provisions of Workmen's Compensation Act, 1923, before the Assistant Commissioner of Labour, Nizamabad, and that the appellants-claimants are entitled to file only one claim petition. There are no circumstances to interfere with the impugned order and ultimately prayed to dismiss the appeal by confirming the Order under challenge.

5. The submissions made by the learned Standing Counsel for the 2nd respondent-Insurance Company is supported by the material on record. As per Section 167 of the Motor Vehicles Act, 1988, the appellants-claimants are entitled to file only one claim petition, either under the provisions of the Motor Vehicles Act, 1988, or under the provisions of Workmen's Compensation Act, 1923. In the instant case, the appellants-claimants have filed two claim petitions, i.e., one under the provisions of the Motor Vehicles Act, 1988 (the subject claim petition); and, the other under the provisions of the Workmen's Compensation Act, 1923, in W.C.No.10 of 2000 on the file of the Assistant Commissioner of Labour, Nizamabad. Therefore, the Tribunal rightly dismissed the claim petition of the appellants-claimants holding that the appellants-claimants are entitled to file only one claim petition. There is no infirmity in the impugned order. The appeal is devoid of merit and is liable to be dismissed.

6. In the result, the appeal is dismissed confirming the order, dated 20.06.2005, passed in O.P.No.306 of 1999, by the Chairman, Motor Accident Claims Tribunal-cum-V Additional District Judge, Nizamabad. No costs.

Miscellaneous Petitions pending, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

09th August, 2018
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