

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.Nos.3197, 3199 and 3214 of 2005

COMMON JUDGMENT:

Since the issue involved in these appeals is one and the same, they are being disposed of by this common judgment.

2. Aggrieved by the grant of compensation vide separate orders, dated 07.07.2005, passed in O.P.Nos.1016, 1017 and 1015 of 2001, by the Chairman, Motor Accident Claimants Tribunal-cum-VII Additional District Judge (Fast Track Court), Nizamabad at Bodhan (for short, "the Tribunal"), the appellants-claimants preferred these appeals under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act') seeking enhancement of compensation. Appeals against respondent No.1-owner of the offending vehicle was dismissed for default.

3. Heard the submissions of Sri Y.S.Yallanand Gupta, learned counsel for the appellants, Sri A.V.K.S.Prasad, learned counsel for the 2nd respondent-Oriental Insurance Company Limited and perused the record.

4. Learned counsel for the appellants-claimants submits that the accident occurred due to rash and negligent driving of driver of Jeep bearing No.AP-25-T-8651; that though driver of the jeep was having valid driving licence at the time of the accident, erroneously the Tribunal fixed the liability against respondent No.1-the owner of vehicle only while discarding liability against respondent No.2-Oriental Insurance Company Limited; that the Court below came to the conclusion that vehicle number mentioned in the petition

and the vehicle numbers mentioned in Exs.A.6 and Ex.B.1-copy of insurance policy are not one and the same and accordingly, fixed the liability against respondent No.1; that in the first instance the vehicle was registered at Latur, Maharastra State with vehicle bearing No.MHP-1177 and later the same was re-registered at R.T.A office at Nizamabad by assigning new number i.e., Jeep bearing No.AP-25-T-8651 on 14.06.2000; that Ex.A.5- copy of R.C. book relates to Jeep bearing No.AP-25-T-8651 and the same was admitted by respondent No.2; that since the policy was in existence as on the date of the accident, the Court below ought to have fixed liability against respondent No.2 also and hence, he prays to enhance the compensation.

5. On the other hand, the learned Standing Counsel for respondent No.2-Oriental Insurance Company Limited submits that the owner of Jeep bearing No.AP-25-T-8651 was not having valid driving licence at the time of accident; that the owner of the vehicle has got two vehicles namely Jeep bearing No.AP-25-T-8651 and vehicle bearing No.MHP-1177 and so also the vehicle number mentioned in the petition and the vehicle numbers described in Exs.A.6 and B.1 are not one and the same and therefore, the Court below rightly fixed the liability on the owner of the vehicle and there are no grounds to interfere with the impugned judgments and hence, he prays to dismiss the appeals.

6. During the course of the submissions, it is brought to the notice of this Court Ex.A.5-xerox copy of R.C.book of vehicle bearing No.AP-25-T-8651, which reveals the change of vehicle number from MHP-1177 to Jeep bearing No.AP-25-T-8651. The

copy of Ex.A.5 is not legible. Further, in the evidence, it has not come out that the owner got re-registered the vehicle from MHP-1177 to Jeep bearing No.AP-25-T-8651 with R.T.A office at Nizamabad. No clear evidence was adduced with regard to change of vehicle. The Court below ought not to have marked Ex.A.5 without proper evidence. Further, there is a clear dispute with regard to the assessment of award of compensation. In view of above disputed questions of fact, the impugned orders are liable to be set aside.

7. Accordingly, the appeals are allowed setting aside the orders, dated 07.07.2005 in M.V.O.P.Nos.1016, 1017 and 1015 of 2001 passed by the Chairman, Motor Accident Claims Tribunal-cum-VII Additional District Judge (Fast Track Court) Nizamabad at Bodhan, and the cases are remanded to the Court below to dispose of Original Petitions afresh in accordance with law, after giving opportunity to both parties to lead either oral or documentary evidence, if any.

Miscellaneous Petitions, if any, pending in these appeals shall stand closed. No order as to costs.

Dr. SHAMEEM AKTHER, J

JULY 11, 2018
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THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER



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Date:11.07.2018

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