

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.1766 of 2007

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity) is filed by the appellant/the New India Assurance Company Limited, challenging the order, dated 15.05.2007, passed in M.V.O.P.No.131 of 2005, by the Chairman, Motor Accident Claims Tribunal-cum-Additional District Judge, Kurnool at Nandyal.

2. Heard the learned Standing Counsel for the appellant-Insurance Company and perused the record. Despite listing this matter under the caption 'For Orders', there is no representation for the respondents 1 to 3/claimants. This appeal is of the year 2007. Hence, this appeal can be disposed of basing on the material available on record, 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 Tribunal granted excessive compensation. The Tribunal ought not to have directed the appellant-Insurance Company to pay the compensation awarded at the first instance and then recover the same from the 4th respondent/owner of the offending vehicle and ultimately prayed to allow the appeal by setting aside the Order under challenge.

4. As seen from the impugned Award, the Tribunal granted a compensation of Rs.1,92,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of realisation in favour of respondents 1 to 3/claimants, for the death of the deceased-

K.Thimma Reddy, who died in a motor accident that occurred on 07.05.2005, due to rash and negligent driving of the driver of the tractor bearing registration No.AP-21-W-2964. The Tribunal, after analysing the evidence on record in correct perspective, granted the said compensation to the respondents 1 to 3/claimants. There is no infirmity in the same.

5. As regards the direction given by the Tribunal to the appellant-Insurance Company to pay the compensation to the claimants at the first instance and then recover the same from the owner of the offending vehicle, it is apt to refer to the decision of the Apex Court in *Manuara Khatun and others Vs. Rajesh Kumar Singh and others*¹, wherein, the Apex Court directed the insurer/insurance company to deposit the compensation awarded at the first instance and then recover the same from the owner of the offending vehicle. In view of the said decision of the Apex Court, the direction given to the appellant-Insurance Company in the impugned Award holds good. The appellant-Insurance Company is entitled to recover the amount deposited by it before the Tribunal towards compensation from the 1st respondent herein/owner of the offending vehicle in the same proceedings by filing an Execution Application.

6. With the above observation, this appeal is disposed of. No costs.

Miscellaneous Petitions pending, if any, shall stand closed.

09th July, 2018
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Dr. SHAMEEM AKTHER, J

¹ 2017 ACJ 1031