

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2697 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.1,00,000/- as against a claim of Rs.2,00,000/-, vide order, dated 21.06.2005, passed in M.V.O.P.No.823 of 2001 by the Chairman, Motor Accident Claims Tribunal-cum-XI Additional District Judge (FTC), Guntur at Tenali, ('the Tribunal', for brevity), the claimants preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity), seeking enhancement of compensation.

2. Heard both sides. Perused the record.

3. The learned counsel for the appellants-claimants would contend that the deceased-Sambraijyam died in the subject accident occurred on 09.05.2001, due to rash and negligent driving of the driver of the lorry bearing registration No.AP-11-T-1313. The Tribunal granted a meagre compensation of Rs.1,00,000/- as against a claim of Rs.2,00,000/-. The Tribunal did not grant adequate compensation under conventional heads and ultimately prayed to enhance the compensation as claimed.

4. On the other hand, the learned Standing Counsel for the 2nd respondent-Insurance Company would contend that the appeal against the 1st respondent herein/owner of the offending lorry bearing registration No.AP-11-T-1313 was dismissed, vide order, dated 17.11.2017, passed by this Court. Since the deceased was travelling in the offending lorry as a gratuitous passenger, no liability can be tagged against the 2nd respondent-Insurance Company and ultimately

prayed to dismiss the appeal by confirming the order under challenge.

5. It is not in dispute that the deceased-Sambraajyam died in the subject accident occurred on 09.05.2001, due to rash and negligent driving of the driver of the lorry bearing registration No.AP-11-T-1313. As per the material placed on record, the appeal against the 1st respondent herein/owner of the offending lorry bearing registration No.AP-11-T-1313 was dismissed, vide order, dated 17.11.2017, passed by this Court. Thereafter, no steps were taken to get the said dismissal order set aside. Admittedly, the deceased was travelling in the offending lorry as a gratuitous passenger as on the date of accident. The Tribunal, after analysing the entire evidence on record in correct perspective, had assessed and awarded a compensation of Rs.1,00,000/- in favour of the appellants-claimants with interest @ 9% per annum from the date of petition till realisation, which is just and reasonable. In view of the dismissal of the appeal against the 1st respondent herein/owner of the offending lorry bearing registration No.AP-11-T-1313 and as the deceased was travelling as a gratuitous passenger in the offending lorry as on the date of accident, there are no circumstances to vary the impugned order. The appeal is devoid of merit and is liable to be dismissed.

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

Pending Miscellaneous petitions, if any, shall stand closed.

05th September, 2018
Bvv

Dr. SHAMEEM AKTHER, J