

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No.2251 OF 2005

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act') aggrieved by the order dated 31.03.2004 passed in O.P. No.107 of 2002 on the file of the Chairman, Motor Accident Claims Tribunal-cum-II Additional District Judge, Karimnagar (for short, 'the Tribunal'), whereby the Tribunal granted Rs.2,02,000/- as compensation with interest at 9% per annum against the appellants and respondent No.3 herein in favour of respondent Nos.1 and 2 herein for the injuries sustained by respondent No.1 herein in a motor accident occurred on 06.06.1999. Respondent Nos.1 and 2 herein are the claimants and respondent No.3 herein and the appellants, who are the driver, insurer and owner of the offending vehicle respectively, are the respondents in the original petition before the Tribunal.

2. Heard both sides and perused the material on record.

3. Learned Standing Counsel for the appellant-insurer would contend that there is no evidence of death of the deceased by name Nerella Kashi Reddy in this case; the Tribunal granted compensation of Rs.2,02,000/- without there being any adequate evidence; and ultimately, prayed to set aside the impugned award.

4. On the other hand, learned counsel for respondent Nos.1 and 2 herein-claimants would contend that the Tribunal basing on the evidence on record, rightly assessed compensation and granted Rs.2,02,000/- in favour of respondent Nos.1 and 2 herein-claimants against the appellants and respondent No.3 herein-driver of the offending vehicle; there is nothing to interfere with the impugned award; and ultimately, prayed to dismiss the appeal.

5. To substantiate the case, the 2nd respondent herein-claimant deposed as P.W.1 and got examined one Langa Srinivas as P.W.2, who is said to be the eye-witness to occurrence of accident, and got marked Ex.A.1-certified copy of F.I.R., Ex.A.2-certified copy of wound certificate, Ex.A.3-certified copy of charge sheet, Ex.A.4-certified copy of Form No.54 and Ex.A.5-admission and discharge card issued by Srinivasa Nursing Home, Jagtial. On behalf of the appellant-insurer, Ex.B.1-copy of insurance policy of the offending vehicle was marked. Originally, the claim was made by the 1st respondent herein-claimant for the injuries sustained by him in the motor accident occurred on 06.06.1999 due to the rash and negligent driving of the driver of the bus bearing registration No.AP 15T 435. Later, after death of the 1st respondent-claimant, the 2nd respondent-claimant brought on record as legal representative of the 1st respondent-claimant. The case and contention of the 2nd respondent herein-claimant is that the 1st respondent herein-claimant succumbed to the injuries suffered by him in the subject accident. No death certificate is filed. There is no acceptable oral evidence also to prove the same. Without marking appropriate death certificate, it is not proper to link the death of the 1st respondent-claimant (Nerella Kashi Reddy) with the subject accident. The Tribunal also assessed the compensation on different scores, i.e., loss of dependency, loss of consortium, etc. The same also requires re-examination. The Tribunal is supposed to record a clear finding basing on the death certificate. Since no clear finding is recorded with regard to the death of the 1st respondent-claimant (Nerella Kashi Reddy), the impugned order dated 31.03.2004 passed by the Tribunal in O.P. No.107 of 2002 is liable to be set aside by remanding the matter to the Tribunal for disposal afresh in accordance with law.

6. In the result, this appeal is allowed and the order dated 31.03.2004 passed by the Tribunal in O.P. No.107 of 2002 is set aside and the O.P. No.107

of 2002 is remanded to the Tribunal for disposal afresh in accordance with law after affording opportunity of hearing to both sides.

7. Miscellaneous Petitions pending, if any, shall stand closed. There shall be no order as to costs.

Dr. SHAMEEM AKTHER, J

Date: 20.06.2018
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