

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2781 of 2007

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), by the appellants-claimants aggrieved by the order dated 23.08.2007 in M.V.O.P.No.731 of 2004 on the file of the Motor Accident Claims Tribunal-cum-V Additional District Judge (Fast Track Court), Guntur (for short 'the Tribunal').

2. Heard the learned counsel for the appellants-claimants, the learned counsel for the 2nd respondent-Insurance Company and perused the record. The appeal against 1st respondent was dismissed for default on 21.07.2017.

3. Learned counsel for the appellants-claimants would contend that the Tribunal while fastening the liability on the owner of the vehicle, absolved the respondent-insurance company from paying the compensation on the ground that there was no insurance policy and that the deceased was a gratuitous passenger in the offending lorry bearing registration No.AP-16-U-7596. He also contended that the deceased was a labourer to unload watermelons at Hyderabad. There is ample evidence on record. However, the Tribunal erroneously dismissed the claim against the insurance company and ultimately, prayed to fasten the liability against the insurance company.

4. Learned counsel for the respondent-insurance company would contend that the deceased was a gratuitous passenger. There is no evidence to hold that he was engaged as labourer or he was the owner of the goods. Under Ex.B1-insurance policy, there is

no coverage of risk of gratuitous passengers/paid passengers travelling in the offending lorry and ultimately, prayed to dismiss the appeal.

5. There is no dispute with regard to the assessment and award of compensation of Rs.2,00,000/- with interest @ 7.5% per annum. The only dispute is with regard to fastening the liability against the respondent-insurance company.

6. There is specific evidence of R.W.1 with regard to the nature of insurance policy. It does not cover the risk of the gratuitous passenger. As the deceased was a gratuitous passenger in the offending lorry bearing registration No.AP-16-U-7596, and as he was not engaged as labourer or he was not the owner of the goods, the Tribunal rightly absolved the respondent-insurance company from paying compensation. There are no grounds to interfere with the impugned order.

7. In the result, the appeal is dismissed confirming the order passed by the Tribunal in M.V.O.P.No.731 of 2004, dated 23.08.2007.

Miscellaneous Petitions pending, if any, in this appeal shall stand closed. No costs.

Dr. SHAMEEM AKTHER, J

Date: 03.10.2018
ssp