

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

**M.A.C.M.A.Nos.2562 OF 2012, 2456 OF 2012, 2651 OF 2012
AND 2680 OF 2012**

COMMON JUDGMENT:

These appeals were filed by the appellant/insurance company, challenging the orders dated 23.02.2012 passed in M.V.O.P.Nos.1399 of 2010, 1400 of 2010, 1398 of 2010 and 1401 of 2010 respectively, by the Motor Accident Claims Tribunal-cum-II Additional District Judge, Guntur (for short, the Tribunal).

2. Since all the appeals arise out of a common accident, they are being disposed of by this common order.

3. The brief facts of the case are that two days prior to 30-5-2010, the deceased in the above O.P., along with others went to Tirupati in a car bearing No.AP7TA 3006. They returned to Vinukonda on 30-5-2010 and when they reached near Edugundlapadu village on 31-05-2010 at about 3.00 AM., their vehicle dashed the negligently stationed lorry without any signals bearing No.AP16TY 1026, as a result of which, all the inmates of the car received injuries and died on the spot. The claimants filed the above O.Ps., for awarding compensation due to the death of the deceased.

4. The first respondent in the claim petitions remained ex parte. Respondent Nos.2 to 4 filed their counters denying the allegations in the claim petitions and contended that they are not liable to pay any compensation and therefore prayed to dismiss the claim petitions.

5. After considering the evidence produced by the parties, the Tribunal held that the accident occurred due to the negligent parking of the lorry bearing No.AP16TY 1026 and directed respondent Nos.1 and 2 in the claim petitions to pay compensation to the claimants. Aggrieved thereby, the appellant/National insurance company Limited (with whom the lorry was insured) filed the present appeals.

6. Heard.

7. The learned standing counsel appearing on behalf of the appellant/insurance company contended that the point of contributory negligence has not been considered by the Tribunal and passed the award fixing the liability against the appellant/insurance company.

8. A perusal of the orders, it is clear that the Tribunal has passed well considered orders and answered the contentions of the counsel for the Insurance company. The Tribunal held that in Ex.A1 certified copy of the F.I.R., the driver of the taxi clearly stated that the driver of the lorry stationed it in the middle of the road without taking any precautions to avert the accident. Further, the driver of the lorry has not given any report against the driver of the car stating that the accident took place due to the composite negligence of the driver of the car. In the absence of any such material on record, it can be safely held that the accident took place due to the negligent act of the driver of the lorry. There is no dispute that the 1st respondent is the owner of the lorry and that the 2nd respondent is its insurer. There is no dispute that the policy was in force as on the date of the

accident. Therefore, the respondents 1 and 2 being the owner and insurer of the lorry bearing No.AP16TY 1026 are jointly and severally liable to pay the compensation to the petitioners. The petition against the respondents 3 and 4 is liable to be dismissed.

9. In view of the above finding of the Tribunal, the owner and insurer of the lorry are liable to make good the loss caused to the claimants. Therefore, the appellant-insurance company is directed to pay compensation to the claimants.

10. Accordingly, all the M.A.C.M.As., dismissed. Miscellaneous petitions pending if any shall stand closed. No order as to costs

Date: 23-11-2018.
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T.AMAARNATH GOUD, J

