

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2891 of 2007

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity), is filed by the appellants-claimants, seeking enhancement of compensation of Rs.4,10,000/-, as against a claim of Rs.5,00,000/-, granted by the Chairman, Motor Accident Claims Tribunal-cum-IV Additional District Judge, Kadapa ('the Tribunal' for brevity), vide order, dated 14.08.2007, passed in M.V.O.P.No.305 of 2003, and to fasten the liability against the respondents 2 to 4 in payment of compensation to them.

2. Heard the learned counsel for appellants-claimants, the learned counsel for the respondents 2 and 4 and perused the record. Appeal against respondent No.1 is dismissed for default on 11.07.2016. Though served with notice, none appears for respondent No.3.

3. The learned counsel for the appellants-claimants would submit that the Tribunal erred in dismissing the claim against respondents 2 to 4 and directing the 1st respondent-owner of the Tata Sumo bearing registration No.AP-03-D6999 only to pay compensation to the appellants-claimants. Since the subject accident occurred due to collision between two vehicles, the drivers of both the vehicles and the insurance companies with which the vehicles were insured are jointly and severally liable to

pay compensation to the appellants-claimants and ultimately prayed to allow the appeal as prayed for.

4. On the other hand, the learned counsel for the respondents 2 and 4 would contend that the Tribunal rightly recorded a finding that the 1st respondent-owner of the Tata Sumo bearing registration No.AP-03-D6999 is only liable to pay compensation to the appellants-claimants and ultimately prayed to dismiss the appeal.

5. Admittedly, there is involvement of two vehicles, i.e., Tata Sumo bearing registration No.AP-03-D-6999 and Jeep bearing registration No.AP-04-U-2494 in the subject accident. The Tribunal, while passing the impugned order, did not record a specific finding as to why the liability was fastened against the 1st respondent-M.Abdul Rahim, owner of the Tata Sumo bearing registration No.AP-03-D-6999 only and the claim against the rest of the (respondents 2 to 4) was dismissed. The subject finding tagging liability against R.1-M.Abdul Rahim, owner of the Tata Sumo bearing registration No.AP-03-D-6999 is not supported by reasons and clear findings. In view of the same, the impugned order is liable to be set aside.

6. Accordingly, the order, dated 14.08.2007, passed in M.V.O.P.No.305 of 2003 by the Tribunal, is set aside. The matter is remitted back to the Tribunal to dispose of M.V.O.P.No.305 of 2003 afresh, in accordance with law, recording a specific finding as indicated supra, after affording reasonable opportunity to both the parties to adduce oral and

documentary evidence, if any. The Tribunal shall complete the said exercise as expeditiously as possible, preferably within a period of six (06) months from the date of receipt of a copy of this order.

7. The appeal is disposed of accordingly. No costs.

Miscellaneous Petitions pending, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

02nd July, 2018
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