

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2987 of 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity) is filed by the appellant-the Oriental Insurance Company Limited, challenging the order, dated 16.07.2003, passed in O.P.No.461 of 2002, by the Chairman, Motor Accident Claims Tribunal-cum-III Additional District Judge, Karimnagar ('the Tribunal', for brevity).

2. Heard the learned Standing Counsel for the appellant-Insurance Company and perused the record. Despite listing this matter under the caption "For Orders", there is no representation for the respondents 1 to 6-claimants. This appeal is of the year 2005. Hence, this appeal can be disposed on merits, basing on the material available on record.

3. The learned Standing Counsel for the appellant-Insurance Company would contend that the subject accident did not occur due to rash and negligent driving of the driver of the lorry bearing registration No.ATS-3429. The Tribunal erroneously apportioned the liability between the owner and the insurer of the lorry bearing registration No.ATS-3429 and ultimately prayed to allow the appeal by setting aside the Order under challenge.

4. In the course of submissions, the learned Standing Counsel for the appellant-Insurance Company brought to the notice of this Court that on an earlier occasion, O.P.No.356 of

1999 and O.P.No.497 of 1999 were filed before the Tribunal claiming compensation by the dependants of the other deceased in the subject accident; the Tribunal granted compensation and apportioned the liability between the owner and the insurer of the offending vehicle; challenging the said finding of the Tribunal, the appellant-Insurance Company preferred C.M.A.No.3098 of 2002 and C.M.A.No.2344 of 2002 respectively before this Court, and this Court, vide separate orders, dated 22.08.2007 passed in the appeals therein, upheld the finding of the Tribunal in apportioning the liability between the owner and the insurer of the offending vehicle. In view of the same, there is nothing to take a different view in this appeal. The appeal is devoid of merit and is liable to be dismissed.

5. In the result, the appeal is dismissed confirming the order, dated 16.07.2003, passed in O.P.No.461 of 2002, by the Chairman, Motor Accident Claims Tribunal-cum-III Additional District Judge, Karimnagar. No costs.

Miscellaneous Petitions pending, if any, shall stand closed.

26th July, 2018
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Dr. SHAMEEM AKTHER, J