

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

MACMA.No.225 OF 2006

JUDGMENT:

The present appeal is preferred by the petitioner – claimant in M.V.O.P.No.451 of 2003 on the file of Chairman, Motor Accidents Claims Tribunal – cum – II Additional District Judge, Vijayawada, aggrieved by the order and decree, dated 15.07.2005, passed in the said O.P., whereby and whereunder, the claim of the petitioners for award of Rs.4,00,000/- as compensation, under Section 166 of the Motor Vehicles Act, 1988, was dismissed *in limini* on the ground that, though, the petitioners (legal heirs of the deceased) claimed that the deceased died in the motor accident, no evidence is adduced by the petitioners either to prove the accident or to prove the cause of death.

2. The appellants are the petitioners, whereas respondent No.1, owner of the vehicle that involved in the accident, and respondent Nos.2 is the insurer of the offending vehicle.

3. Learned counsel for the appellants submits that the Court below has not considered the evidence of PWs1 to 3 in proper perspective and also Exs.A1-Copy of FIR, Ex.A2-Copy of altered FIR and Ex.A6-Copy of Case dairy.

4. On the other hand, Sri A.Ramakrishna Reddy, learned Standing Counsel for the 2nd respondent submits that there is no proof that the death of the deceased arising out of motor vehicle accident, as such, the Court below rightly dismissed the same.

5. A perusal of the impugned order goes to show that the Court below has not considered Exs.A1, A2 and A6 and also evidence of PW3 in proper perspective. This Court would have decided the appeal itself on merits, but, depositions of the witnesses are not sent by the Court below.

6. In view of the above, without entering into the arena of merits, it is desirable to set aside the order and decree passed in the present O.P and remand the matter to the Tribunal for fresh disposal, after affording an opportunity to both sides to adduce further necessary evidence. Further, since the O.P relates to the year 2006 and the accident said to have taken place in the year 2003, it would be appropriate to direct the Tribunal to dispose of the O.P within four months from the date of receipt of a copy of this order.

7. Accordingly, the appeal is allowed setting aside the order and decree dated 15.07.2005 in M.V.O.P.No.451 of 2003 passed by the Tribunal and remanding the matter to the Tribunal to dispose of the said O.P as indicated above, within the time stipulated.

As a sequel, miscellaneous applications, if any, pending in this appeal shall stand closed.

A.RAJASHEKER REDDY, J

02.02.2018
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