

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No.2809 OF 2006

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the appellant-claimant aggrieved by the order dated 08.11.2006 in O.P.No.385 of 2004 on the file of the Motor Accident Claims Tribunal-cum-III Additional District Judge, Ananthapur (for short, 'the Tribunal').

2. Heard the learned counsel for the appellant-claimant and perused the record. No representation for the respondents. This appeal pertains to the year 2006. Hence, it can be disposed of on merits basing on the material available on record.

3. Learned counsel for the appellant-claimant would contend that the Tribunal had granted meagre compensation and ultimately prayed to enhance the same and also prayed to fasten the liability against respondent No.2-Insurance Company.

4. While dealing with the subject matter, the Tribunal framed the following issues:-

1. Whether the accident occurred on 24.12.2003 due to the rash and negligent driving of the mini lorry bearing No.AP 02U 5220 and caused the death of the deceased?
2. Whether the petitioner is entitled to compensation? If so to what amount and from which respondent?
3. To what relief?

5. While answering the issues with regard to the rashness and negligence on the part of the mini lorry bearing No.AP 02U 5220, the Tribunal did not analyse the evidence of

P.Ws.1 and 2 and a clear finding is not recorded to that effect. Further, the Tribunal had not taken the relevant facts into consideration with regard to the assessment and award of compensation. Further, the Tribunal did not discuss even the policy of insurance, however, ultimately, granted compensation of Rs.64,000/- with interest @ 7.5% per annum against respondent No.1-owner of crime vehicle directing him to deposit the said compensation within thirty days from the date of order and dismissed the claim against respondent No.2-Insurance Company. Without analysing the facts of the case, the Tribunal rendered the above finding, which is not inconsonance with the law and the same is perverse.

6. Therefore, the impugned order dated 08.11.2006 in O.P.No.385 of 2004 on the file of the Motor Accident Claims Tribunal-cum-III Additional District Judge, Ananthapur is set aside and the matter is remanded to the Tribunal to dispose of the same afresh in accordance with law after affording opportunity to both sides.

7. Accordingly, the appeal is disposed of.

The Miscellaneous Petitions, if any, pending shall stand closed. There shall be no order as to costs.

Dr. SHAMEEM AKTHER, J

Date: 17.08.2018
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