

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2296 OF 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant/the United India Insurance Company Limited, aggrieved by the grant of compensation of Rs.2,00,000/- to the respondents 1 to 5/claimants, by the learned Chairman, Motor Accident Claims Tribunal – cum – IV Additional District Judge (Fast Track Court-III), Khammam (for short, “the Tribunal”) *vide* order, dated 15.04.2005, passed in M.A.T.O.P.No.129 of 2000.

2. Heard the submissions of the learned Standing Counsel appearing for the United India Insurance Company Limited representing the appellant. Though this matter is posted today under the caption “For Orders”, there is no representation on behalf of the respondents 1 to 5/claimants. The appeal pertains to the year 2005. So, it can be disposed of basing on the material available on record.

3. Learned Standing Counsel for the United India Insurance Company Limited representing the appellant would contend that the deceased Odela Sudhakar was travelling in a Bajaj pick up Van bearing No.AP-20-T-8730 as a gratuitous passenger; that there is no coverage of risk of the gratuitous passengers travelling in the goods vehicle; that the Tribunal erred in directing payment of compensation along with the owner of the goods vehicle; that the grant of compensation is excessive and ultimately, prayed to set aside the impugned order and allow the appeal as prayed for.

4. As far as the grant of compensation is concerned, the Tribunal took the correct age of the deceased, applied the correct multiplier and awarded the compensation. There is no infirmity in the same. There are no circumstances to interfere with the same.

5. The other question is whether the Tribunal is justified in tagging the liability to the appellant/insurer herein? As per the evidence placed on record, the deceased Odela Sudhakar was aged about 27 years and was a private Electrician – cum – Clerk. On 28.11.1999, at 9:30 hours, the deceased, after tying banners at Julurupadu, started to Enkoor in the Bajaj pick up Van bearing No.AP-20-T-8730/offending vehicle. He was proceeding in the said van in order to tie the banners in the capacity of owner of the goods. He succumbed to the injuries sustained in the accident caused by that van. Further, the Tribunal, while dealing with this matter, examined the policy of insurance marked as Ex.B-1 and stated that an amount of Rs.15/- was paid for the persons employed in connection with loading and unloading and held that the risk of the deceased is covered under Ex.B-1 – copy of policy. As per the record, the deceased was carrying banners in the van for the purpose of tying the same at different places and in that process, he succumbed to injuries caused in the accident by the offending van by which he was travelling. There was also evidence of paying Rs.15/- for covering risk of persons employed for loading and unloading in the said van. In view of that, the Tribunal had rightly tagged the liability against the driver, insurer as well as the owner of the offending van. There is no infirmity in the impugned

order. There is nothing to take a different view. The appeal is devoid of merit and is liable to be dismissed.

6. In the result, the appeal is dismissed. There shall be no order as to costs.

7. Miscellaneous petitions pending, if any, in this appeal shall stand closed.

DR.JUSTICE SHAMEEM AKTHER

Date : 26.07.2018
AMD



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