

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2135 OF 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant/United India Insurance Company Limited, aggrieved by the grant of compensation of Rs.50,000/- to the 1st respondent/claimant, by the learned II Additional District and Sessions Judge (Fast Track Court), Medak at Sangareddy *vide* order, dated 20.09.2004, passed in M.V.O.P.No.351 of 2000.

2. Heard the submissions of the learned Standing Counsel appearing for the United India Insurance Company representing the appellant and the learned counsel for the 1st respondent/claimant, and perused the material on record.

3. Learned Standing Counsel for the United India Insurance Company representing the appellant would contend that the policy of insurance was taken subsequent to the occurrence of the accident on 21.04.1999 and without looking into this aspect, the Court below was pleased to tag the liability against the appellant, which is erroneous; that the award of compensation of Rs.50,000/- is also excessive and ultimately, prayed to allow the appeal as prayed for.

4. On the other hand, learned counsel for the 1st respondent/claimant would contend that the Court below had taken all the factors into consideration and granted just and reasonable compensation; that there are no circumstances to

interfere with the same and ultimately, prayed to dismiss the appeal.

5. In view of the submissions made by the learned Standing Counsel appearing for the United India Insurance Company, the following points come up for determination:

- “1. Whether the compensation awarded by the Court below at Rs.50,000/- is to be reduced? and***
- 2. Whether the Court below is justified in directing the appellant to pay the compensation along with the 2nd respondent/owner of the offending vehicle?”***

6. **POINT No.1:-**

As seen from the evidence on record, the Court below marked the following documents on behalf of the claimant:

- “1. Ex.A1 – CC of F.I.R. in Cr.No.73/99 of P.S.Sangareddy*
- 2. Ex.A2 – CC of Spot Panchanama*
- 3. Ex.A3 – CC of Medical Certificate*
- 4. Ex.A4 – CC of Charge Sheet*
- 5. Ex.A5 – CC of Licence issued by Grampanchayat, Vendikole to run hotel Business.”*

Ex.A-3 – Medical Certificate issued by the Deputy Civil Surgeon, Sangareddy shows that the claimant sustained one fracture injury and one simple injury. Considering the nature of injuries, the claimant was granted an amount of Rs.15,000/- for the fracture injury and Rs.3,000/- for the simple injury. The Doctor physically verified her and opined that the disability is 50%. Considering the nature of disability of the claimant, she is granted an amount of Rs.30,000/- towards disability and a sum of Rs.2,000/- towards compensation for pain and suffering, and in total, the claimant was awarded an amount of Rs.50,000/- with interest at the rate of

9% per annum from the date of petition till the date of realization.
Hence, the compensation granted by the Tribunal in favour of the
1st respondent/claimant is just and reasonable.

7. **POINT No.2:-** As seen from the policy of insurance, the
offending vehicle i.e., Lorry bearing No.AAP-5643 was insured with
the appellant/Insurance Company on 21.04.1999 and the effect of
policy of insurance is from 2:30 P.M. on 21.04.1999 and the same
is mentioned in Ex.B-1 – copy of policy of insurance. As per the
evidence and the documents placed on record, the subject accident
occurred on 21.04.1999 at 5:30 P.M. It goes to show that the
accident occurred after the issuance of policy of insurance (original
of Ex.B-1). There is no evidence to hold that the policy of
insurance was obtained by the owner of the offending vehicle after
the occurrence of the accident. The Tribunal recorded a finding
after analyzing the entire evidence of the 1st respondent/claimant
in depth. There are no circumstances to take a different view. The
appeal is devoid of merit and is liable to be dismissed.

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

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

DR.JUSTICE SHAMEEM AKTHER

Date : 02.07.2018
AMD

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