

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.1195 of 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity) is filed by the appellant-owner of the offending lorry bearing registration No.AEK-6058, challenging the order, dated 22.06.2004, passed in O.P.No.318 of 1997, by the Chairman, Motor Accident Claims Tribunal-cum-Additional District Judge, Mahabubnagar ('the Tribunal', for brevity).

2. Heard the learned Standing Counsel for the 4th respondent-Insurance Company and perused the record. Despite listing this matter under the caption "For Orders", there is no representation for the appellant-owner of the offending vehicle. This appeal is of the year 2005. Hence, this appeal can be disposed of basing on the material available on record.

3. The learned Standing Counsel for the 4th respondent-Insurance Company would contend that the since the deceased-Ganga Raju, who was a Police Constable, was travelling in a goods vehicle carrying cement load as a gratuitous passenger on the date of the subject accident, the Tribunal rightly held that the 4th respondent-Insurance Company is not liable to pay compensation and tagged the liability only against the appellant-owner of the offending vehicle. There are no circumstances to interfere with the impugned order and ultimately prayed to dismiss the appeal confirming the Order under challenge.

4. As seen from the material placed on record, the deceased-Ganga Raju, who was working as a Police Constable, was travelling in a goods vehicle carrying cement load on the date of accident, i.e., on 11.09.1996. He suffered injuries and succumbed to the same in the subject motor accident, due to rash and negligent driving of the driver of the lorry bearing registration No.AEK-6058. The Tribunal, relying on the decisions of the Apex Court in *New India Assurance Company Limited Vs. Asha Rani and others*¹ and *National Insurance Company Limited Vs. Baljit Kaur and others*², held that since the deceased was travelling in a goods vehicle, the 4th respondent-Insurance Company is not liable to pay compensation and tagged the liability only against the appellant herein-owner of the offending lorry bearing registration No.AEK-6058. The appellant-owner of the offending vehicle did not choose to put-forth his submissions before this Court. Ex.B.1-Copy of the Insurance Policy reveals that the offending vehicle is a goods vehicle and there is no coverage of the risk of the gratuitous passengers travelling in the said vehicle.

5. Under these circumstances, as the deceased suffered injuries and succumbed to the same in the subject accident while travelling in a goods vehicle as a gratuitous passenger, the Tribunal justified in recording a finding that the 4th respondent-Insurance Company is not liable to pay compensation and the appellant herein-owner of the offending lorry bearing registration

¹ 2003 (1) TAC 1 (SC)

² 2004 (1) TAC 336 (SC)

No.AEK-6058 is liable to pay compensation. 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. No costs.

Miscellaneous Petitions pending, if any, shall stand closed.

No order as to costs.

Dr. SHAMEEM AKTHER, J

26th July, 2018
Bvv

