

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3350 of 2012

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), by the appellant-Insurance company aggrieved by the order dated 11.10.2002 in O.P.No.1520 of 2000 on the file of the Motor Accident Claims Tribunal-cum-III Additional Chief Judge, City Civil Court, Hyderabad (for short 'the Tribunal').

2. Heard the learned counsel for appellant-Insurance Company and perused the record. The appeal against 1st respondent was dismissed for default on 29.11.2011. There is no representation for the 2nd respondent-owner.

3. The learned counsel for appellant-Insurance Company would contend that the claimant is the gratuitous passenger in the offending lorry bearing registration No.CHSD 39311. The Tribunal erroneously fastened the liability against the appellant-insurance company. He also contended that the grant of compensation of Rs.12,500/- is exorbitant. He relied on the decision rendered in *New India Assurance Company Limited v. Asha Rani and others*¹ case and ultimately, prayed to set aside the impugned order.

4. It is appropriate to state that no notice was served on the owner of the offending vehicle i.e., respondent No.2 herein. Under these circumstances, even the direction to pay and recover cannot be given. The appeal is devoid of merit and it is liable to be dismissed.

5. In the result, the appeal is dismissed.

¹ 2003(2) SCC 223

The Miscellaneous Petitions, if any, pending shall stand closed.

Dr. SHAMEEM AKTHER, J

Date: 17.09.2018
ssp

