

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

C.M.A. No.1352 OF 2004

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the petitioner aggrieved by the order dated 20.01.2004 in M.V.O.P.No.178 of 2001 on the file of the Principal Motor Accidents Claims Tribunal-cum-Principal District Judge, Warangal (for short, 'the Tribunal').

2. Heard the learned counsel for the appellant-petitioner and the learned counsel for respondent No.3-Insurance Company.

3. Learned counsel for the appellant-petitioner would contend that the appellant-petitioner filed the O.P. for grant of compensation of Rs.3,00,000/- on account of death of the deceased-Boyas, who is her husband. The Tribunal dismissed the O.P. without justifiable reasons.

4. Now the appellant-petitioner had filed attested copies of O.P. slip and case sheet, wherein it is mentioned that the deceased Boyas met with an accident caused by a scooter.

5. As can be seen from the record, it appears that on 24.06.2000, when the deceased was proceeding on a cycle, he was hit by a scooter bearing No.AP 36B 9396. Thereafter, he was admitted in M.G.M. Hospital. While undergoing treatment, he succumbed to the injuries on 27.06.2000. The attested copy of the out patient slip and the attested

case sheet reveals that the date of admission is on 25.06.2000 and there is a specific mention therein that 'alleged to have sustained injury due to scooter and cycle accident on 24.06.2000 at 9.00 P.M.', which is corroborated with the pleadings and record.

6. Learned counsel for the appellant would contend that as the wife of the deceased being lady, she could not procure the said documents in time before the Tribunal. Hence, M.A.C.M.A.M.P.No.3118 of 2005 is filed to receive the said documents. The said documents are necessary to prove that the accident was occurred due to rash and negligent driving of the driver of the scooter bearing No.AP 36B 9396.

7. There is substance in the arguments advanced by the learned counsel for the appellant-petitioner. Hence, this Court is of the considered view that the Tribunal has to consider the documents produced by the appellant-petitioner and decide the O.P. on merits.

8. Therefore, the award dated 20.01.2004 passed in M.V.O.P.No.178 of 2001 by the Principal Motor Accidents Claims Tribunal-cum-Principal District Judge, Warangal, is set aside and the matter is remanded to the Tribunal with a direction to consider the above documents and decide the claim petition in accordance with law after giving opportunity to both sides.

9. Accordingly, the appeal is allowed. There shall be no order as to costs.

Miscellaneous Petitions pending, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

Date: 06.06.2018
ssp

