

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.NO.610 OF 2006

JUDGMENT:

This appeal is preferred by the Insurance Company against the judgment, dated 03.05.2005 in O.P.No.494 of 2002 passed by the Chairman, Motor Accident Claims Tribunal-cum-District Judge, Adilabad (for brevity 'the Tribunal').

2. The brief facts of the case are that the petitioners/claimants are the parents of Jumnaka Laxman (hereinafter referred to as 'the deceased'). On 12.04.2002, when the deceased as a labourer under employment of 1st respondent on his tractor and trailer bearing No.AP.1.T.4200 and AP.1.T.4373, was proceeding for bringing load of sand, the vehicle was driven in a rash and negligent manner by its driver, as a result of which, it turned turtle and the deceased sustained multiple injuries and died on the spot. Hence, the petitioners claimed compensation of Rs.2,00,000/- from the respondents 1 and 2, who are the owner and insurer of the tractor and trailer.

3. To substantiate the claim, on behalf of the petitioners/claimants, P.Ws.1 and 2 were examined and Exs.A1 to A3 were marked. On behalf of the respondent/Insurance Company, R.W.1 was examined and Exs.B1 to B10 were marked.

4. The Tribunal on consideration of entire oral and documentary evidence available on record, awarded compensation of Rs.1,85,000/- as against the claim of Rs.2,00,000/- in favour of the petitioners with proportionate costs and interest at 9% p.a. from the date of petition till the date of payments and directed to share the said

compensation amount equally by the petitioners 1 and 2. Aggrieved by the same, this appeal is preferred by the Insurance Company.

5. The crucial document, which comes for consideration in this appeal is that as per Ex.B2, the permit to the vehicle was issued from 12.04.2002 to 30.06.2002. The vehicle involved in the accident was for commercial purpose and not for agricultural purpose. The apex Court in **AMIT PAUL SINGH AND ANOTHER V TATA AIG GENERAL INSURANCE CO., LTD., AND OTHERS**, in Civil Appeal No.2253 of 2018, dated 17.05.2018, by following the judgments in case of **NATIONAL INSURNACE COMPANY LTD., V CHALLA BHARATAMMA AND OTHERS** ¹ and **NATIONAL INSURNACE COMPANY LTD., V SWARAN SINGH AND OTHERS** ², dismissed the appeal confirming the order passed by the Court below directing the Insurance Company to pay the compensation to the claimants and recover the same from the owner of the vehicle.

6. In the light of the judgment of the apex Court cited supra, the appellant/Insurance Company shall pay the compensation as awarded by the Tribunal to the claimants first and thereafter, recover the same from the owner of the vehicle.

7. With the above observation, the appeal is partly allowed. No order as to costs. Miscellaneous petitions, if any pending in this appeal shall stand closed.

T.AMARNATH GOUD, J

DATED: 17-09-2019
Hsd

¹ (2004) 8 SCC 517

² (2004) 3 SCC 297

