

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2529 OF 2009

JUDGMENT:

This appeal is filed by the appellant-insurance company aggrieved by the Order and Decree dated 28-01-2009 passed in M.A.T.O.P.No.151 of 2005 by the Motor Accident Claims Tribunal-cum-II Additional District Judge, Khammam (for short, the Tribunal).

2. The brief facts of the case are that respondent No.1 is the wife, respondent Nos.2 and 3 are minor children and respondent Nos.4 and 5 are parents of the deceased-Shaik Lal Saheb. The deceased was working as driver of tractor of water tanker bearing No.AP20V 4732. On 12.07.2003, while the deceased stationing the tanker, the tanker dashed against newly constructed wall, as a result of which, wall suddenly fell on the deceased. In the said accident, the deceased sustained grievous injuries. Immediately, the deceased was shifted to hospital, but on the way, he succumbed to the injuries. Respondent Nos.1 to 5 herein filed the aforesaid MATOP claiming compensation of Rs.2,50,000/- against the owner (respondent No.5 herein) and insurer of the tractor (appellant herein).

3. Before the Tribunal, respondent No.6 and the appellant filed their separate counters denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

4. After considering the oral and documentary evidence on record, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the tractor and awarded total compensation of Rs.2,50,000/- with interest @ 7.5% per annum. As the driver of the tractor (deceased) had no valid driving license, the Tribunal directed the appellant to pay the compensation amount to the claimants/respondent Nos.1 to 5 herein at the first instance and recover the same from the owner/respondent No.6 herein. Challenging the said Order, the insurance company filed the present appeal.

5. Heard.

6. A perusal of the order of the Tribunal reveals that the Tribunal passed a well considered order by taking into consideration all the aspects. Therefore, I see no reason to interfere with the order of the Tribunal and the appeal is liable to be dismissed.

7. It is brought to the notice of this Court by the learned counsel for the appellant that though the Tribunal in its order directed the insurance company to pay the compensation amount to the claimants and recover the same from the owner, in the decree, it has wrongly observed that the owner and insurance company are jointly and severally liable to pay compensation to the claimants. He seeks permission of this Court to file appropriate application before the Tribunal for amendment of the decree.

8. In the result, the Motor Accident Civil Miscellaneous Appeal is dismissed confirming the order of the Tribunal. However, the appellant is at liberty to file appropriate application before the Tribunal seeking amendment of the decree. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 25.06.2019
TJMR

