

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. Nos. 1715, 1742, 2520 of 2005, 953 & 963 of 2006

COMMON JUDGMENT:

Since all these appeals arise out of the same award and the appellant is also one and the same, these appeals are being disposed of by this common judgment.

2. M.A.C.M.A.No.1715 of 2005 is filed questioning the order passed in O.P.No.1215 of 2000; M.A.C.M.A.No.1742 of 2005 is filed questioning the order passed in O.P.No.1217 of 2000; M.A.C.M.A.No. 2520 of 2005 is filed questioning the order passed in O.P.No.1214 of 2000, M.A.C.M.A.No. 953 of 2006 is filed questioning the order passed in O.P.No.1216 of 2000 and M.A.C.M.A.No.963 of 2006 is filed questioning the order passed in O.P.No.1220 of 2000, dated 22-03-2004 of the Motor Accident Claims Tribunal-cum- II Additional District Judge, Nalgonda (for short, the Tribunal).

3. Brief facts of all these cases are that when the injured claimants and the legal representatives of the deceased along with others are travelling in the lorry bearing No.AP 16 W 6238, as agricultural labourers, from Guntur to Malleshpally, along with their goods, the lorry was driven in a high speed and when it reached Ganapavaram village, at about 11 pm, the left front tyre of the lorry was burst, due to which, the lorry turned turtle and fell on the left side

of the road and caused accident. In the said accident, some of them were injured and some of them were died and therefore, the following claim petitions were filed as follows:

O.P.No.1215 of 2000:

In this petition, the claimant who is injured in the said accident claimed Rs.2.00 lakhs for the injuries sustained by him and the Tribunal awarded compensation of Rs.26,000/- directing the appellant and 2nd respondent herein to pay the same jointly and severally. Aggrieved by the same, MACMA No.1715 of 2005 is filed by the insurance company.

O.P.No.1217 of 2000:

In this petition, the petitioners, who are the wife and parents of the deceased, claimed Rs.2.00 lakhs for the death of the deceased- Kethavath Jabbar and the Tribunal awarded compensation of Rs.1,76,400/- directing the appellant and 4th respondent herein to pay the same jointly and severally. Aggrieved by the same, MACMA No.1742 of 2005 is filed by the insurance company.

O.P.No.1214 of 2000:

In this petition, the petitioners, who are the parents and the unmarried sister of the deceased, claimed Rs.2.00 lakh for the death of the deceased-Kethavath Julu and the Tribunal awarded compensation of Rs.1,27,400/- directing the appellant and 4th respondent herein to

pay the same jointly and severally. Aggrieved by the same, MACMA No.2520 of 2005 is filed by the insurance company.

O.P.No.1216 of 2000:

In this petition, the petitioners, who are the parents and the unmarried minor sisters of the deceased, claimed Rs.1,50,000/- for the death of the deceased-Megavath Kishan and the Tribunal awarded compensation of Rs.1,27,400/- directing the appellant and 5th respondent herein to pay the same jointly and severally. Aggrieved by the same, MACMA No.953 of 2006 is filed by the insurance company.

O.P.No.1220 of 2000:

In this petition, the petitioner who is injured in the said accident claimed Rs.50,000/- for the injuries sustained by her and the Tribunal awarded compensation of Rs.28,000/- directing the appellant and 2nd respondent herein to pay the same joint and severally. Aggrieved by the same, MACMA No.963 of 2006 is filed by the insurance company.

4. Sri E.Venugopal Reddy, learned counsel for the appellant/insurer strenuously contended only on the issue of fastening of liability; that insurance company is not liable to pay compensation and since all the claimants/deceased in these appeals are gratuitous passengers and there is violation of the insurance policy and therefore, pay and recover may be ordered. In support of his contention, he

relied upon the decisions of the Supreme Court in **National Insurance Co. Ltd v. Baljit Kaur**¹ and unreported judgment in **Anu Bhanvara Etc. v. IFFCO TOKIO General Insurance Company Limited and others**².

5. Since the crime vehicle itself is covered under valid policy, for the act of negligence caused by the driver of the crime vehicle, the claimant cannot be put to irreparable loss of hardship and accordingly, following the Apex Court judgments, referred to supra, all these appeals are allowed to the extent that the insurance company is directed to pay the compensation awarded by the Tribunal and the same be recovered from the insured owner of the crime vehicle.

6. Insofar as quantum of compensation is concerned, the same remains unchanged in all the appeals as there is no dispute with the regard to the said compensations.

7. With the above observation, all these appeals are allowed to the extent indicated above. No costs.

8. Miscellaneous petitions pending, if any, shall stand dismissed. No order as to costs.

JUSTICE AMARNATH GOUD

Date: 26-09-2019

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¹ (2004) 2 S.C.C. 1

² Civil Appeal Nos.6231 & 6232 of 2019 dt.09-08-2019