

HONOURABLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.638 of 2006

JUDGMENT:

This appeal is filed by the United India Insurance Company under Section 173 of the Motor Vehicles Act aggrieved by the orders passed by the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge (FTC-I), Khammam (for short 'the Tribunal), in M.A.T.O.P.No.1272 of 2001 dated 25.10.2005.

2. For the sake of convenience, the parties herein are referred to as arrayed in the Court below.

3. The brief facts of the case are that on 08.04.2000, the deceased along with other coolies went to Jilugumalli Quari and after loading fencing stones in a tractor and trailer bearing Nos.ATK-7458 and 7460 they were going to Pentlam village to unload the stones. On the way, at Yatalakunta village, 1st respondent-driver of the tractor drove the same at high speed and as a result, the tyre of the trailer was broken and the trailer was removed from the engine and turned turtle, due to which the deceased sustained fatal injuries and died on the spot. The deceased was a coolie aged about 25 years and the claim made by the claimants was for Rs.2,50,000/-.

4. The Tribunal after framing the issues and examining the witnesses, allowed in part the claim of the claimants and awarded an amount of Rs.1,98,000/- with interest @ 9% per annum. Aggrieved by said award, the insurance company preferred the present appeal.

5. Learned counsel for the appellant-insurance company contended that the Tribunal failed to consider that the policy is an act policy and it will not cover the risk of the coolies and the deceased is a third party traveling in the vehicle as loading and unloading labour and he is not entitled for any compensation and the insurance company is not liable to pay the compensation and sought to exonerate him from the liability by allowing the appeal.

6. Learned counsel for the respondents 1 to 3/claimants submits that the award of the Tribunal is well considered one and it requires no interference and sought for dismissal of the appeal.

7. On perusal of the record, it is evident that when the accident has taken place the deceased fell on the ground and the tractor and trailer ran over his body leading to his death. Hence the act policy applies to the deceased and the claimants are entitled for the compensation amount.

8. Accordingly and in the result, this Appeal is partly allowed by reducing the rate of interest from 9% to 7.5% per annum from the date of petition till realization. In other aspects, the award of the Tribunal holds good. No costs.

Miscellaneous petitions if any shall stand closed.

T.AMARNATH GOUD, J

Date: 16.09.2019
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