

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.3345 of 2005

JUDGMENT:

Appellant-Insurance Company filed this appeal challenging the Award dated 02.09.2005 passed in O.P.No.29 of 2004 by the Chairman, Motor Vehicle Accidents Claims Tribunal-cum-I Additional District Judge, Karimnagar, granting compensation of Rs.5,33,000/- together with interest at 9% per annum as against the claim of Rs.6,00,000/- on account of the death of the deceased Pochamallu in the motor vehicle accident occurred on 13.06.1998.

2. Heard. Perused the record.

3. The only contention urged by the learned counsel for the appellant before this Court is that the accident was caused by some unknown vehicle and recording the same, the case was closed by the Police. After a period of one and half year, the case was re-opened by the Police in collusion with the claimants implicating the car bearing No.AP.25.T.2288 in the accident and thus, he contends that the vehicle shown in the present case is different from the vehicle which actually caused the accident. Therefore, the Insurance Company is not liable to pay compensation.

4. As regards the contention urged by the learned counsel for the appellant, it can be seen from the impugned judgment that the Tribunal framed issue No.1 '*whether the accident had occurred due to rash and negligent driving of the vehicle bearing No.AP.25.T.2288 by the 1st respondent?*'. The Tribunal at para 6 of the impugned judgment categorically dealt with the said issue and

on the strength of Ex.A.6-charge sheet, the Tribunal held that the vehicle which is figured in the charge sheet is the one which is actually involved in the accident. Relevant portion of the observations made by the Tribunal are re-produced hereunder:

“A perusal of Ex.A.1 shows that the report was lodged to the effect that some unknown vehicle dashed against the deceased. But, a perusal of the charge sheet, which is enclosed in Ex.A.6, shows that Adepu Thirupathi was cited as a witness and the gist of his evidence was noted down against the said column, wherein it was stated that Adepu Thirupathi spoke to the fact that the accused went to him and informed about the accident and got the car repaired by him and that the accused also threatened him with dire consequences, if he informed the same to any one. But after some period, he informed the same to L.W.7. Hence even assuming that Ex.B.3 is true and is given by said Adepu Thirupathi cogent explanation came forth from the charge sheet as to why he could depose in the said manner. The existence of threat against the said witness can be inferred from the charge sheet. Though after some time it was stated that Adepu Thirupathi revealed the matter to Lw7, he might have again suspected some danger when he was against the accused. Moreover R.3 did not choose to examine Adepu Thirupathi, whose whereabouts are well known to Rw1, in order to prove the said statement and subject him to cross examination. Hence, the said statement cannot be relied upon. The charge sheet which is filed after due investigation, clearly shows that the vehicle is involved in the accident. Hence in view of the above it can be held that the vehicle is involved in the accident.”

Thus, from the above, it can be easily concluded that after elaborately appreciating the evidence available before it, the Tribunal answered the issue in favour of the claimants. Except taking the plea that the vehicle shown in the present case is different from the vehicle which actually caused the accident, no evidence was let in by the appellant in support of its contention.

In the absence of any contra evidence let in by the appellant-Insurance Company, this Court finds no reason to take a different view than the one taken by the Tribunal and to interfere with the well considered order passed by it. Hence, I see no merits in the appeal.

Accordingly, the appeal is dismissed confirming the impugned judgment passed by the Tribunal.

Miscellaneous petitions pending in this appeal, if any, shall stand closed. No order as to costs.

29.08.2019
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T. AMARNATH GOUD, J

