

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

MACMA NO. 2179 OF 2009

JUDGMENT:

This appeal is directed against the Award dated 15.10.2007 passed by the Motor Accident Claims Tribunal-cum-IV Additional District Judge, Warangal (for short 'the Tribunal'), in M.V.O.P.No.277 of 2007, whereby the Tribunal dismissed finding that the compensation would be paid when negligence is on the part of the others, and not on the part of the person causing the accident and the petitioners to make claim under Workmen Compensation Act, in view of the admissions made by the 1st respondent that the deceased was his employee and died while discharging his duties.

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

3. Aggrieved by the dismissal of the MVOP by the Tribunal, the claimants filed this appeal.

4. The claimants filed claim petition under Section 163-A of the M.V. Act, but the Tribunal passed the Award under Section 166 read with Rule 455 of the M.V. Act, which is error apparent on the face of the record without appreciating the case on hand, where the claimants have benefit of making their claim under Section 167 of the M.V. Act. Though the Tribunal examined PWs.1 and 2 and marked Exs.A1 to A.7 on behalf of the claimants, none were examined on behalf of the 2nd respondent and no documents were

filed. It is settled principle of law that the claimants are entitled for compensation despite the deceased is an employer cum owner of the vehicle and therefore, the insurance company is liable to pay compensation.

5. In the circumstances stated above, the appeal is allowed setting aside the Award dated 15.10.2007 passed by the Motor Accident Claims Tribunal-cum-IV Additional District Judge, Warangal in M.V.O.P.No.277 of 2007 and remitted. The Tribunal is therefore, directed to dispose of the O.P. afresh as expeditiously as possible preferably within three months from the date of receipt of a copy of this judgment since the accident occurred on 17.10.2005, which the claimants deprived of their legitimate right. There shall be no order as to costs.

T.AMARNATH GOUD, J

16.07.2019.
kvrn