

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.818 of 2011

JUDGMENT:

This appeal is preferred by the appellant/insurance company challenging the order and decree dated 14.06.2010 passed in O.P.No.512 of 2007 by the Chairman, Motor Accidents Claims Tribunal-cum-III Additional District Judge (FTC), Mahabubnagar, Gadwal (for short, the Tribunal).

2. The brief facts of the case are that on 23.04.2007, while the deceased Abdul Raheem and others were proceeding on a tractor and trailer bearing No.AP-22-V-5791 and 5792 to Chandrabanda Village, Karnataka State, to load concrete and when the vehicle reached at the limits of Earlabanda at 7.00 AM., the driver of the tractor drove it in a rash and negligent manner, due to which, the trailer, which was connected to the tractor, was broken and turned turtle, as a result, the deceased fell down underneath the trailer and died on the spot. The Police, Dharur, registered a case in Cr.No.30 of 2007 against the driver of the tractor. The petitioners being parents of the deceased filed aforesaid O.P., claiming compensation of Rs.3,00,000/- for the death of the deceased in the accident.

3. The 1st respondent-owner of the crime vehicle remained *ex parte*. The 2nd respondent-insurer filed counter denying the allegations made in the petition stating that the accident occurred due to rash and negligent driving of the driver of tractor and that the

deceased was traveling in it as gratuitous passenger and prayed to dismiss the claim petition.

4. During trial, the petitioners examined P.Ws.1 to 3 and got marked Exs.A1 to A9. On behalf of the respondents, R.Ws.1 to 3 were examined and Exs.B1 to B5 were marked.

5. After considering the material on record and the evidence adduced by the petitioners, the Tribunal allowed the O.P. in part awarding compensation of Rs.1,77,000/- with interest at 7.5% per annum from the date of petition till the date of realization payable by respondents 1 and 2 jointly and severally. Aggrieved by the said order, the insurance company preferred the present appeal.

6. Heard.

7. Learned Standing Counsel for the appellant/insurance company contended that as the deceased was traveling as unauthorized passenger in a goods vehicle at the time of accident, the appellant is not liable to pay compensation and thus, he prays to allow the appeal by setting aside the order impugned.

8. A perusal of the order impugned reveals that the Tribunal has passed a well considered order by taking into consideration the oral and documentary evidence adduced on behalf of both the parties. Further, the Tribunal has rightly observed that the policy is covered third party liability and therefore, the appellant is liable to pay compensation to the claimants. Hence, I see no reason to

interfere with the said order and therefore, the appeal is liable to be dismissed.

9. Accordingly, the appeal is dismissed. Miscellaneous petitions, if any pending in this appeal, shall stand dismissed. No order as to costs.

T.AMARNATH GOUD, J

11th July, 2019

sj

