

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

MACMA NO. 1521 OF 2006

JUDGMENT:

This appeal is directed by the insurance company against the order and decree dated 20.10.2005 passed by the Motor Accidents Claims Tribunal-cum-II Additional District Judge, Nalgonda at Suryapet in O.P.No.86 of 2004 (Old O.P.No.362 of 2002), whereby the tribunal awarded compensation of Rs.1,63,500/-on account of the accident occurred on 30.12.2001 at about 11.10 P.M. at the outskirts of Thripuraram Village as against the claim of Rs.2,00,000/-.

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

3. Before the tribunal, respondent No.1, owner of the crime vehicle died, his son i.e. 3rd respondent added as party and he filed counter denying the claim petition, but admitted that the crime vehicle was insured with the 2nd respondent – insurance company. Respondent No.2 – insurance company filed counter denying the claim of the petition.

4. In order to prove the case of the claimants, before the tribunal, the claimants examined PWs.1 and 2 and marked Exs.A.1 to A.8. No oral evidence is adduced on behalf of the respondents, but marked Ex.B.1- copy of insurance policy.

5. Learned standing counsel appearing for the insurance company contended that the tribunal failed to see that Ex.B.1 is an Act Policy and that the 3rd respondent has not paid any extra premium to cover the risk of the deceased or any body else and hence, the insurance company is not liable to pay the compensation and hence, prayed to allow the appeal.

6. Learned counsel appearing for the claimants contended that the award passed by the tribunal is well considered and hence, prayed to dismiss the appeal.

7. On perusal of the entire material available on record and having regard to the facts and circumstances of the case, the manner in which the accident occurred clearly indicates that the deceased was traveling along with the goods i.e. paddy in the tractor/trailer and because of rash and negligent driving of the driver of the tractor/trailer, the deceased fell down from the tractor and wheel of the tractor ran over the head of the deceased, for which the deceased succumbed to the injuries and that if the vehicle ran over the body of the deceased, the claimants are entitled for compensation as the accident has to be treated as Act policy considering the deceased as 3rd party.

8. In view of the above, the appeal is dismissed. There shall be no order as to costs.

Miscellaneous petitions if any, shall stand closed.

T.AMARNATH GOUD,J

Date: 12.11.2019
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