THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1507 OF 2009

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 17.10.2008 passed in O.P.No.647 of 2004 by the Motor Accidents Claims Tribunal-cum-IV Additional District and Sessions Judge (FTC), Mahabubnagar (for short, the Tribunal).

2. The brief facts of the case are that the appellants are the parents of the deceased-G.Hari Prasad. On 15.01.2004, while the deceased along with his mother and sister was proceeding in an auto bearing No.AP22/U 7264 from Mahabubnagar, the auto met with accident near Peddadarpally Village, due to which the deceased and others sustained multiple grievous injuries. Immediately they were shifted to Government Hospital for treatment. The deceased succumbed to injuries while undergoing treatment on the same day. Prior to the accident, the deceased was hale and healthy and was earning Rs.8,000/- per month as owner-cum-driver of the said auto and contributing the same for the maintenance of his family. Due to sudden demise of the deceased, the appellants sustained huge loss. Hence, the claimants filed the present claim petition claiming a compensation of Rs.2,50,000/-, payable by the respondent, who is the insurance company.

3. Before the Tribunal, the respondent/insurance company filed its counter denying the averments of the claim petition and

contended that the amount claimed is excessive and prayed to dismiss the claim petition.

4. After considering the oral and documentary evidence on record, the Tribunal came to the conclusion that the deceased was driving the vehicle at the time of the accident and dismissed the claim petition by holding that as the accident occurred due to negligence of the deceased himself, though the policy was in force and the insurance company has collected Rs.100/- covering the personal accident (P.A.) risk of the owner-cum-driver, the insurance company is held not liable to pay the accident benefit of Rs.2,00,000/- under the Personal Accident Policy in the absence of the driving licence of the deceased, which was not produced before the Tribunal. Aggrieved by the same, the appellants filed the present appeal.

5. Heard.

6. Sri M.Damodar Reddy, learned counsel for the appellants, contended that in the deposition of P.W.1, it is categorically stated that the deceased was owner-cum-driver of the auto bearing No.AP22/U 7264 and more over she was not having access to the driving licence of the deceased and could not file the same before the Tribunal.

7. Per contra, learned G.Vasantha Rayudu, learned Standing Counsel for the respondent/insurance company submitted that the Tribunal passed a well reasoned order and the appellants are not entitled for any compensation as the driving licence of

the deceased was not produced before the Tribunal and sought to dismiss the appeal.

8. It is not the case of the respondent/insurance company that the deceased has no driving licence, but it is only the case that the valid driving licence was not produced before the Tribunal. On verifying the record, it is found that the RC book is in the name of the deceased-G.Hari Prasad, who is the owner of the auto bearing No.AP22/U 7264 and insurance policy is also issued in his name. The vehicle insured is a passenger auto and it has to be plied by its owner-cum-driver regularly to earn his livelihood. A reasonable inference has to be drawn that without driving licence of an auto, the owner will not purchase the auto and more so, will not proceed for getting the vehicle insured and further plying the vehicle on the road without driving licence also becomes highly practicable. Therefore, this Court draws an inference that the deceased is having valid driving licence, but however, the same could not be produced by P.W.1, who is the mother of the deceased, and accordingly, the same could not be marked as exhibit. Therefore, it needs to be further observed that when the earning member in the family dies, leaving behind the illiterate parents, it becomes herculean task for the illiterate parents with rural background for complying with the required legal formalities.

9. Having regard to the facts and circumstances of the case and the submissions of the learned counsel for the appellants,

this Court feels that it is a fit case to allow the appeal and setting aside the order of the Tribunal.

10. Accordingly, the appeal is allowed by setting aside the order and decree dated 17.10.2008 passed in O.P.No.647 of 2004 by the Tribunal and the appellants/claimants are entitled for a compensation of Rs.2,00,000/- under the Personal Accident Policy. The said amount shall carry interest @ 7.5% per annum.

Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 16.07.2019

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