

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.51 of 2013

JUDGMENT:

This appeal is preferred by the appellant/insurer questioning the order of the Motor Accident Claims Tribunal (V Additional District Judge (FTC)), Kothagudem (for short, the Tribunal) in M.A.T.O.P.No.57 of 2006 dated 19-11-2011.

2. Brief facts of the case are that on 29-01-2005 while the deceased along with his friend Muthyala Bhanu Rajashekar was riding motorcycle bearing No.AP 20 F 9013, belonging to 4th respondent, and when they reached near Bhadrachalam Paper Boards Limited, East Gate at Sarapaka, his motorcycle fell into pits/ditch existing in the middle of the road, as a result, they fell on the road and sustained grievous injuries and while taking treatment in hospital, he died. The claimants who are the parents and brother of the deceased, respectively, filed the claim petition claiming compensation of Rs.4.00 lakhs against the respondents who are the owner and insurer of the vehicle.

3. In the claim petition, the appellant-insurer filed a counter denying the allegations and contended that the amount claimed by the claimants is highly excessive and that it is not liable to pay any compensation and therefore prayed to dismiss the claim petition.

4. After considering the oral and documentary evidence on record, the Tribunal held that the deceased himself drove the vehicle but unfortunately the vehicle fell into the pit resulting the death of the deceased.

Though the appellant strongly opposed the case of the claimants by contending that Section 147 of the M.V.Act does not contemplate the coverage of insurance in respect of the owner/rider of the vehicle and therefore he was not covered under the policy terms and conditions, the Tribunal relying upon the judgments of various High Courts viz., **National Insurance Company Limited v. Malati.C Saliyani**¹, **Oriental Insurance Company Limited v. Salma**² and **New India Assurance Company Limited v. Mahender**³, held that both the respondents are liable to pay compensation and accordingly allowed the claim petition awarding total compensation of Rs.2,26,000/- i.e. Rs.2,16,000/- towards loss of income; Rs.5,000/- towards funeral expenses and Rs.5,000/- towards loss of estate with interest at the rate of 7.5% per annum through out. Aggrieved thereby, the appellant/insurer filed the present appeal.

5. Heard.

6. The case of the claimants was that the deceased was an engineering student, aged about 21 years and earning income between Rs.10,000/- and Rs.20,000/- per month. However, based on the oral and documentary evidence, the Tribunal granted compensation of Rs.2,26,000/-.

7. The only point argued by the learned counsel for the appellant is that the deceased was not having valid driving licence therefore, without having driving licence, the claim is not maintainable.

8. It is evident from the record that Ex.A-8 is the original copy of driving licence and more so, as seen from the judgment, the Tribunal has

¹ 2004 (1) TAC 511

² AIR 2008 Karnataka page-106

³ AIR 2008 (NOC) Gujarat PG. 659

clearly appreciated the oral and documentary evidence and awarded compensation in a right manner, which in my considered view, is just and proper and need not be interfered with by this Court. Therefore, the appeal filed by the insurer is liable to be dismissed.

9. Accordingly, the Motor Accident Civil Miscellaneous Appeal is dismissed.

10. Miscellaneous petitions pending, if any, shall stand dismissed.

No order as to costs.

Date: 16-08-2019
kvr

T.AMARNATH GOUD, J

