

THE HON'BLE JUSTICE G. SRI DEVI

M.A.C.M.A. No. 3420 of 2011

JUDGMENT:

The New India Assurance Company Limited, respondent No. 2 before the Tribunal, preferred this appeal challenging the judgment and decree, dated 01.08.2011, passed in O.P.No. 513 of 2009 on the file of the Motor Accidents Claims Tribunal-cum-VII Additional District and Sessions Judge (Fast Track Court), Nizamabad at Bodhan.

The claimants, respondent Nos. 1 to 3 herein, filed the O.P. claiming compensation of Rs.3.00 lakhs for the death of deceased-Khadam Govind Rao, who died in the motor accident that occurred on 16.02.2009. According to the claimants, while the deceased was traveling in the lorry bearing No. AP 9T 1587, as the owner of the goods from Dongaan to Khandeballur, when the lorry reached near Vazrakhandi Village Shivar, at about 12:45 p.m., the driver of the lorry drove it at high speed in a rash and negligent manner, and dashed against a tree, resulting in the instantaneous death of the deceased. According to the claimants, the deceased was 60 years and was earning Rs.20,000/- per month as agriculturist. Considering the claim and the counter filed by the Insurance Company and on evaluation of the evidence, both oral and documentary, the learned Tribunal has allowed the O.P. in part and awarded total compensation of Rs.1,26,000/- with 7.5% interest per annum holding the owner of the vehicle and the insurance company jointly and severally liable to pay the compensation.

Now, the only contention of the learned Standing Counsel for the appellant is that as per the charge sheet, L.W.6 is the owner of the goods and that the deceased was only accompanying L.W.6 and therefore, there is no liability on the part of the Insurance Company to pay any compensation for the person accompanying the owner of the goods. Further, if any compensation is payable, the respondent No. 4 herein, being the owner of the vehicle, alone is liable to pay the same. Hence, the learned Standing Counsel seeks interference of this Court with the impugned order of the learned Tribunal.

Heard the learned Standing Counsel for the appellant and the learned counsel for the claimants-respondent Nos. 1 to 3 herein. Perused the material available on record.

The learned Tribunal, while considering the ground now raised by the learned Standing Counsel that the crime vehicle is goods vehicle, and therefore, no passengers can be permitted to travel in it and as such the deceased travelled therein in violation of the police conditions and no liability can be fastened on the Insurance Company, at para 14, categorically observed as under:-

“14. It is the contention of the first respondent that the crime vehicle is goods vehicle, and as such, no passengers can be allowed to travel in it and the deceased traveling in it is a violation, and as such, it is not liable to pay any compensation. The contention of the petitioners is that the deceased was traveling the lorry as the owner of the goods. Their version in this regard is supported by the certified copy of the charge sheet Ex.A.2. It is mentioned in Ex.A.2 that Shaik Ghoiuse (L.W.6) purchased three bags of onion from the

deceased at Dangaon and was returning to Khandeballure in the lorry, and as an amount of Rs.200/- (Rupees Two hundred only) was due, the deceased also accompanied Ghouse at Khandaballure. Thus, the version of the petitioners in this regard is supported by Ex.A.2 which is a result of investigation done by police. There is nothing on record to disbelieve the said version. It is therefore evident that the deceased was traveling in the lorry along with his goods. As per the decision in Oriental Insurance Company Limited, Kadapa Versus Yarava Laxmi Devi reported in 2009 (4) ALD page 491, the owner of the goods traveling in the goods vehicles has to be considered as third party covered under the policy. Admittedly, the Insurance policy under Ex.B. 1 was in force by the date of the accident. As such, the first respondent is also liable to compensation to the petitioners..."

In view of the categorical findings recorded by the learned Tribunal, as extracted above, this Court sees no merit in the contention now raised by the learned Standing Counsel for the appellant. As no other ground is raised, I do not see any reason to interfere with the impugned order passed by the learned Tribunal.

Hence, the M.A.C.M.A. fails and the same is accordingly dismissed.

Miscellaneous petitions, if any pending, shall stand closed.

JUSTICE G. SRI DEVI

21.12.2021
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DATE: 21-12-2021