

HONOURABLE JUSTICE G. SRI DEVI

M.A.C.M.A.No.923 of 2014

JUDGMENT:

This appeal is filed under Section 173 of Motor Vehicles Act, aggrieved by the order and decree, dated 25.05.2009 passed in O.P.No.1435 of 2004 on the file of the Motor Accident Claims Tribunal (VIII Additional District Judge), Nizamabad (for short “the Tribunal”).

2. For the sake of convenience, the parties will be hereinafter referred to as arrayed before the Tribunal.

3. The facts, in issue, are as under:

4. The claimants filed a petition claiming compensation of Rs.6,00,000/- for the death of one K.Chandraiah (hereinafter referred to as “the deceased”), who died in a motor vehicle accident. It is stated that on 05.07.2003 the deceased was proceeding on motor cycle bearing No.AP 25 H 6241 as pillion rider from Vallabhapur towards Ethonda camp and when the said motor cycle reached the outskirts of Ethonda village, the rider of the motor cycle drove it in a rash and negligent manner at high speed and lost control over the vehicle and the deceased

fell down, sustained serious injuries and he succumbed to injuries while undergoing treatment. Since the accident occurred only due to the rash and negligent driving of the rider of the motor cycle, the claimants filed the aforesaid O.P. against the respondents 1 and 2, who are the owner and insurer of the said motor cycle.

5. Before the Tribunal, the 1st respondent filed counter denying the rash and negligent driving of the rider of the motor cycle. It is stated that the motor cycle was insured with the 2nd respondent and the policy was in force as on the date of the accident, as such, if any compensation to be awarded by the Tribunal, the 2nd respondent alone is liable to pay the same and prayed to dismiss the claim-petition.

6. The 2nd respondent filed counter denying the allegations made in the claim-petition including the manner in which the accident took place, age, avocation and income of the deceased.

7. Basing on the above pleadings, the Tribunal framed the following issues:-

1. Whether the accident has taken place due to rash and negligent driving of the vehicle bearing No.AP 25 H 6241 by its rider?
 2. Whether the petitioners are entitled for compensation, if so, to what just amount and against whom?
 3. To what relief?
8. On behalf of the claimants, P.Ws.1 to 4 were examined and Exs.A1 to A6 were marked. On behalf of the respondents, R.Ws.1 to 4 were examined and Exs.B1 to B7 were marked.
9. After considering the oral and documentary evidence available on record, the Tribunal held that the alleged accident is not true and that the motorcycle of the 1st respondent was falsely implicated and that the deceased sustained injuries having fallen down from the top of the bus and accordingly, dismissed the claim-petition. Challenging the same, the present appeal is filed by the claimants.
10. Heard and perused the record.
11. A perusal of the impugned order would show that after considering the oral and documentary evidence adduced by both

the parties, the Tribunal has categorically held that the alleged accident is not true and that the motorcycle of the 1st respondent was falsely implicated and that the deceased sustained injuries having fallen down from the top of the bus. The Tribunal has rightly taken all the aspects into consideration and passed a well reasoned order. Therefore, I see no reason to interfere with the order of the Tribunal and the appeal is liable to be dismissed.

12. Accordingly, the M.A.C.M.A. is dismissed. There shall be no order as to costs.

13. Miscellaneous petitions, if any, pending shall stand closed.

12.04.2022
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JUSTICE G. SRI DEVI