

THE HON'BLE SMT.JUSTICE M.G.PRIYADARSINI

M.A.C.M.A.No.2042 OF 2016

JUDGMENT:

Being not satisfied with the quantum of compensation awarded in the order and decree, dated 18.03.2015, passed in M.V.O.P.No.21 of 2011, on the file of the Chairman, Motor Accidents Claims Tribunal-cum-V-Additional District Judge, Mahabugnagar, the appellants/claimants preferred the present appeal seeking enhancement of the compensation.

The facts, in issue, are as under:

The appellants filed a petition under Section 166 of the Motor Vehicles Act claiming compensation of Rs.6,00,000/- for the death of the Mabbu Ramulu (hereinafter referred to as "the deceased"), who died in a road accident that occurred on 20.07.2010 at about 18.00 P.M. while the deceased namely Mabbu Ramulu was grazing his sheep's on Mancherial-Nirmal Highway at Kannapur bus stage and was sitting beside the road, all of a sudden an auto bearing No. AP-

01-V-7492 came from kadam side in high speed in a rash and negligent manner driven by its driver and dashed Mabbu Ramulu. Due to which the deceased received severe injuries and died on the spot and the said auto also dashed one cyclist namely Basa Gopal and he has also received injuries. The police, Kadam registered a case in Cr.No.105 of 2010 against the driver of auto, for the offence punishable under Section 304-A, 377 IPC. Since the 1st respondent being the owner of the vehicle and the 2nd respondent being insurer of the vehicle, are jointly and severally liable to pay compensation.

The 1st respondent set exparte.

The 2nd respondent/Insurance company filed counter denying the manner of accident, age, avocation and income.

Based on the above pleadings, the Tribunal framed the following issues:

- 1) Whether the accident in which the deceased died, occurred on 20.07.2010 was due to rash and negligent driving of the offending vehicle by its driver?
- 2) Whether the petitioners are entitled for compensation as claimed in the petition, if so to what extent and against whom ?

3) To what relief?

In support of their claim, the appellants examined PWs.1 to 2 and got marked Exs.A1 to A5. Respondent No.2 did not adduce any evidence either orally or by way of documentary.

After considering the claim and the counter filed by respondent No.2, and on evaluation of the evidence, both oral and documentary, the learned Tribunal has partly allowed the O.P. and awarded compensation of Rs.6,00,000/- with interest at 7.5% interest per annum to be paid by respondent Nos.1 and 2 jointly and severally. Being not satisfied with the said compensation, the appellant filed the present appeal.

Heard and perused the material available record.

The learned Standing Counsel for the appellant/Insurance Company contended that since there was no separate endorsement on the driving licence of the driver of the subject vehicle bearing No. AP-01-V-7492 to drive the transport vehicle, it is to be construed that the driver of the subject vehicle had no valid driving licence. On this ground, the Tribunal ought to have absolved the

appellant/Insurance Company from the liability and ultimately, prayed to allow the appeal, as prayed for.

It is not in dispute that the deceased- D.Ramulu died in the accident that occurred on 20.07.2010, due to rash and negligent driving by the driver of the offending auto bearing registration No. AP-01-V-7492. The only question that requires determination is whether the driver of the subject vehicle No. AP-01-V-7492 is authorised to drive the subject transport vehicle.

Here, it is appropriate to refer the decision of the Hon'ble Apex Court in ***Mukund Dewangan vs. Oriental Insurance Company Limited***¹, wherein it was held that there is no requirement to obtain separate endorsement to drive transport vehicle, and if a driver is holding licence to drive light motor vehicle, he can drive transport vehicle of such class without any endorsement to that effect. Therefore, the contention of the appellant/Insurance Company that the driver of the subject vehicle bearing No. AP-01-V-7492 had no valid driving licence to drive the subject transport vehicle, is

¹ (2017) 14 Supreme Court Cases 663

unsustainable. There is no legal infirmity in the impugned award and decree dated 18.03.2015 passed by the Tribunal to absolve the appellant/ Insurance from the liability. This appeal is devoid of merit and is liable to be dismissed.

Accordingly, this appeal is dismissed. No costs.

Miscellaneous Petitions, if any, pending in this appeal, shall stand closed.

M.G.PRIYA DARSINI, J

Date: 28th October, 2022
PSA