

HON'BLE SMT. JUTICE LALITHA KANNEGANTI

M.A.C.M.A. No. 5359 OF 2008

ORDER:

This is an Appeal filed by the Insurance Company. The claimants filed O.P.No. 614 of 1994 seeking compensation of Rs.1,00,000/- for the death of their minor son Sri Ravi Kiran in the motor accident that took place on 13.07.1994. The learned Motor Accidents Claims Tribunal-cum-Additional District Judge at Khammam *vide* order dated 20.03.1998 granted an amount of Rs.95,000/- to the claimants.

2. As there was no representation on behalf of the Insurance Company, this Court by order dated 13.02.2023 appointed Ms. P. Satya Manjula, learned counsel to represent the Insurance Company.

3. The argument of the learned counsel is two-fold: 1) the deceased does not possess a valid driving licence, however, the Tribunal had held that the Insurance Company is liable to pay the compensation; and 2) the Tribunal granted interest at 12% per annum on the compensation. It is further submitted that on these two grounds, the Insurance Company is aggrieved by the order passed by the Tribunal.

4. Coming to the first contention of the learned counsel with regard to the driving licence, the Hon'ble Apex Court in ***National Insurance Company Limited v. Swaran***

Singh¹, held that the Insurance Company is liable to pay to the claimant first and then recover the same from the owner of the vehicle, under the principle of 'pay and recover'. In view of the said ratio laid down by the Hon'ble Apex Court, as this is no longer *res integra*, this Court need not delve much on this aspect.

5. As far as awarding interest is concerned, the O.P. is of the year 1994 and as per the prevailing bank rates at that point of time, the Tribunal had granted interest at 12%. Therefore, this Court do not find any reason to interfere with the order of the Tribunal. The Appeal of the insurance company therefore, is liable to be dismissed.

6. The Appeal is accordingly, dismissed. There shall be no order as to costs.

7. The Miscellaneous Applications, if any shall stand automatically closed.

LALITHA KANNEGANTI, J

14th February 2023

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¹ 2004(1) ACJ 1

