



HIGH COURT OF ANDHRA PRADESH
MONDAY ,THE TWENTY FOURTH DAY OF APRIL
TWO THOUSAND AND TWENTY THREE

PRSENT

THE HONOURABLE SRI JUSTICE VENUTHURUMALLI GOPALA KRISHNA RAO

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 1027 OF 2012

Between:

1. The Branch Manager, New India Assurance Co. Ltd., Kurnool.

...PETITIONER(S)

AND:

1. Jetti Kumara Swamy S/o late Srinivasulu
employee
R/o D.No. 12/458
Kotharoad,
Chennur Village and Post,
2. Jetti Kartavarayudu S/o late Srinivasulu
Coolie
R/o D.No. 12/458
Kotharoad,
Chennur Village and Post,
3. J.Siva Subrahmanyam S/o Pala Kondaiah, major
D.no. 1/113,
Chennai Road,
Chennachowk, Kadapa Town.
4. S.Venkata Seshu S/o Narayana, age: major
D.No. 3/76,
Main Road, Onipenta Village,
Mydukur Mandal,

...RESPONDENTS

Counsel for the Petitioner(s): MAHESWARA RAO KUNCHEAM

Counsel for the Respondents: L J VEERA REDDY

The Court made the following: ORDER



THE HON'BLE SRI JUSTICE V.GOPALA KRISHNA RAO

M.A.C.M.A.No.1027 of 2012

JUDGEMENT:

The appellant is the second respondent in M.V.O.P.No.417 of 2003 on the file of the Motor Accident Claims Tribunal-cum-IV Additional District Judge, Kadapa and the respondents are the petitioners and other respondents in the said case.

2. Both the parties in the appeal will be referred to as they are arrayed in claim application.

3. The claimants filed a Claim Petition against the respondents by praying the Tribunal to award an amount of Rs.2,00,000/- towards compensation on account of death of deceased Jetti Srinivasulu in a Motor Vehicle Accident occurred on 01.05.2003.

4. The brief averments of the claim petition are as follows:

On 01.05.2003 at about 5.30 p.m. while the deceased Jetti Srinivasulu was returning to his house in an auto bearing No.AP 04 U 5245 and when the auto reached near Bhumayapalli bridge on Kadapa-Kurnool main road, the driver of the said auto drove the



same in a rash and negligent manner with high speed and lost control over the vehicle, resulting which the auto turned turtle, as a result, the deceased Srinivasulu sustained injuries, later succumbed to injuries and the petitioners claimed an amount of Rs.2,00,000/- towards compensation for the death of the deceased Srinivasulu in a Motor Vehicle Accident.

5. The respondents 1 to 3 filed counters by denying the claim application and contended that the claimants are not entitled any compensation and the respondents 1 to 3 are not liable to pay any compensation to the petitioners.

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

- i. Whether the deceased J.Srinivasulu died in a motor vehicle accident on 01.05.2003 due to rash or negligent driving of R-1's auto bearing No.AP 04 U 5245 by its driver?
- ii. Whether the petitioners are entitled for compensation, if so, to what amount and from whom?
- iii. To what relief?



7. On behalf of the petitioners, PW1 and PW2 were examined and Ex.A1 to Ex.A3 were marked. On behalf of respondents RW1 was examined and Ex.B1 to Ex.B3 were marked.

8. After considering the evidence on record, the Tribunal has given a finding that the accident was occurred due to rash and negligent driving of driver of offending vehicle and the Tribunal granted an amount of Rs.1,64,100/- to the claimants towards compensation.

9. Aggrieved by the same, the second respondent/ Insurance company filed the present appeal.

10. Now, the point for consideration is:

Whether the Order of Tribunal needs any interference?

11. POINT:-

The case of the petitioner is that on 01.05.2003 at about 5.30 p.m. while the deceased Jetti Srinivasulu was returning to his house in an auto bearing No.AP 04 U 5245 and when the auto reached near Bhumayapalli bridge on Kadapa-Kurnool main road, the driver



of the said auto drove the same in a rash and negligent manner with high speed and lost control over the vehicle, resulting which the auto turned turtle, as a result, the deceased Srinivasulu sustained injuries, later succumbed to injuries.

12. In order to prove the case of the petitioners, the first petitioner himself got examined as PW1. PW1 is not an eye-witness. The claim petitioners got examined the eye-witness as PW2. The evidence of PW2 clearly shows that because of the rash and negligent driving of the driver of crime vehicle only, the accident was occurred and the petitioners also relied on Ex.A1 certified copy of First Information Report and Ex.A2 certified copy of charge sheet. The evidence of PW2 coupled with Ex.A1 and Ex.A2 clearly proves about the rash and negligent driving of auto bearing No.AP 04 U 5245 and due to his rashness and negligence only, the accident was occurred and the deceased, who was travelling in the auto, sustained severe injuries, later succumbed to injuries. Therefore, in view of the above reasons, because of the rash and negligent driving of driver of auto only, the accident was occurred. The Tribunal also gave the same finding. Therefore, there is no need to interfere with the said finding given by the learned Tribunal.



13. The petitioners in this case are claiming compensation of Rs.2,00,000/- for the death of deceased J.Srinivasulu in a road accident. It is the contention of the petitioners that the deceased was a coolie and earning an amount of Rs.2,400/- per month by the date of his death. The learned Tribunal by giving cogent reasons fixed the same amount of Rs.2,400/- per month towards the monthly income of deceased. The learned Tribunal deducted 1/3 of the said amount towards personal expenses of the deceased. After deducting 1/3 amount, Rs.1,600/- per month is available to the dependents of the deceased, it come to Rs.19,200/- per annum and the multiplier applicable to the age group of the deceased is '8' and it comes to Rs.1,53,600/- ($Rs.19,200 \times 8 = Rs.1,53,600/-$). Accordingly, the learned Tribunal granted an amount of Rs.1,53,600/- to the petitioners towards loss of dependency. In addition to that, the learned Tribunal also granted an amount of Rs.4,000/- towards medicines and extra nourishment, Rs.2,000/- towards love and affection, Rs.2,000/- towards funeral expenses and Rs.2,500/- towards loss of estate. Accordingly, the learned Tribunal granted an amount of Rs.1,64,100/- towards total compensation and the learned Tribunal rightly granted the said



amount. Therefore, there is no need to interfere with the said quantum of compensation awarded by the Tribunal.

14. As seen from the material on record, it shows that about more than 10 persons were travelling in the offending vehicle at the time of accident and the seating capacity in the auto is three passengers plus driver, in total four. It is the contention of the learned counsel for Insurance Company that the first respondent transferred the vehicle to third respondent on 07.12.2002, the same was pleaded in the written statement. The date of accident was 01.05.2003. As per the own admissions of the Insurance Company, the Registration Certificate also transferred in favour of respondent No.3 by respondent No.1. As per the material available on record, the crime vehicle/auto was insured with Insurance Company under Ex.B1 copy of policy and the driver of the auto also possessed valid driving licence to drive the auto. Therefore, since the driver of auto having valid and effective driving licence by the date of accident and the crime vehicle is insured with 2nd respondent Insurance Company and the policy is also on force and in view of the decision of Hon'ble Supreme Court of India (three Judge Bench) of **Singh ram Vs.,**



Nirmala and others¹, the Insurance Company shall pay the claim at first instance and later recover the same from the owner of the crime vehicle.

15. In the judgment of ***Manuara Khatun and others Vs. Rajesh Kumar Singh and others***² it was held that the direction to United India Insurance Company Limited being the insurer of the offending vehicle which was found involved in causing accident due to negligence of its driver needs to be issued directing them (United India Insurance Company Limited/ respondent No.3) to first pay the awarded sum to the appellants (claimants) and then to recover the paid awarded sum from the owner of the offending vehicle without filing any independent suit by filing an Execution Petition against the owner of the crime vehicle.

16. Accordingly, the 2nd respondent/ Insurance company is directed to pay the total claim of Rs.1,64,100/- to the claimants at first instance, later recover the same from respondent No.3 by filing Execution Petition without filing independent suit, since third

¹ 2018 Law Suit (SC) 191,

² (2017) 4 Supreme Court Cases 796



respondent is the owner of the offending vehicle at the time of accident.

17. In the result, this appeal is disposed of, by modifying the order dated 31.05.2007 passed in M.V.O.P.No.417 of 2003 on the file of the Motor Accident Claims Tribunal-cum-IV Additional District Judge, Kadapa. It is held that the claimants are entitled to a total compensation of Rs.1,64,100/- with interest @7.5% p.a., from the date of petition, till the date of payment. The 2nd respondent/ Insurance Company is directed to pay the claim amount, within one month from the date of this judgment, to the claimants at first instance and later recover the same from respondent No.3 by filing an Execution Petition and without filing any independent suit. On such deposit, the claimants are entitled to withdraw the same along with costs and accrued interest thereon. There shall be no order as to costs.

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

V.GOPALA KRISHNA RAO, J

Dated: 24.04.2023.
Sj



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HON'BLE SRI JUSTICE V.GOPALA KRISHNA RAO

M.A.C.M.A.No.1027 of 2012

24.04.2023

sj