



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3311]

Thursday the thirtieth day of April two thousand and twenty six

Present

The Honourable Ms. Justice B.S.Bhanumathi

C.M.A. No: 3301 of 2004

Between:

M/s. Oriental Insurance Co. Ltd., Tirupati

... Appellant

and

Smt Padmaranjani M.R. and others

...Respondents

Counsel for the appellant:

V.Veerabhadrachary

Counsel for the respondents:

R-1 D. Kodandarami Reddy

The Court made the following:

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and the award dated 27.04.2004 in M.V.O.P. No. 298 of 1997 on the file of the Motor Accidents Claims Tribunal-cum-I Additional District Judge, Chittoor.

2. The respondent No.1 is the claimant, the respondent No.2, the appellant and the respondent No.3 herein are the respondents Nos.1 to 3 before the Tribunal.

3. The case of the claimant, briefly stated, is as follows:

The claimant, who is the mother of the deceased Bharath, filed a petition seeking compensation of Rs.1,00,000/- for the death of her son in a motor vehicle accident. The respondent No.3 is her husband and father of the deceased. The respondent No.1 was the owner of the jeep bearing No.PY-01-D/6941. The respondent No.2 was the insurer of the jeep.

4. On 12.09.1995, while the claimant, along with her deceased son and others, was travelling in the jeep, due to the collision of the jeep with a tree on the road side, the accident occurred. Mr. Bharath, who sustained injuries in the accident, succumbed to the injuries.

5. All the three respondents filed separate counters.

6. The Tribunal held that the accident was caused due to the rash and negligent driving of the driver of the jeep. The Tribunal awarded compensation of Rs.1,00,000/- with interest @ 9% p.a. from the date of filing of the petition till the date of deposit, making the respondents Nos.1 and 2 jointly and severally liable to pay the same to the claimant.

7. The petition against the respondent No.3, who is the father of the deceased and husband of the claimant, was dismissed.

8. The insurance company / the respondent No.2 preferred this appeal contending that the jeep was a private vehicle, but used for hire against the terms of the policy and the policy of the insurance had not covered the liability.

9. Though notice was sent to the respondent No.2, i.e., owner of the jeep, to the same address as given before the Tribunal, it was returned unserved. As such, it is deemed to be sufficient service of notice. Since the respondent No.3 is father of the deceased and the claim petition was dismissed against him, he is not a necessary party.

10. Heard the learned counsel for the appellant and the learned counsel for the respondent No.1 / claimant.

11. The learned counsel for the appellant submitted that it is not only this claim, but a group of other claims were raised by several individuals out of the same accident, vide M.V.O.P.Nos. 171, 237, 286 and 190 of 1996 and that when those claim petitions were dismissed with the observation that there was no proof of rash and negligence and that the inmates were gratuitous passengers in the jeep, the claimants preferred appeals before this High Court vide C.M.A.Nos. 3180, 3020, 3024 of 1998 and 39 of 1999 and those appeals were disposed of by this High Court on 22.09.2003 holding that the accident was caused due to the rash and negligent driving of the driver of the jeep and allowed the claim petition against the respondent No.1, i.e., owner of the jeep alone, while dismissing the claim against the insurance company / the respondent No.2 with the observation that the claimants / victims were travelling in the jeep as gratuitous passengers by taking the jeep on hire. Therefore, he contended that as the present claim arises out of the same accident,

there cannot be conflicting view, though disposed on different dates. He further submitted that the appellant complied the direction of this Court at the time of granting interim stay, by depositing 50% of the awarded amount.

12. The learned counsel for the respondent No.1 opposed the appeal.

13. There is no dispute about disposal of the batch of appeals which arose out of the very same accident. There cannot be two inconsistent views regarding the liability of the insurance company. Further, the evidence shows that the jeep was taken on hire and the policy of insurance had not covered the liability. Accordingly, the appellant cannot be fastened liability. It seems that the insurance company failed to place before the Tribunal a copy of the order in the appeals. Anyhow, as the respondent No.1 alone is liable, the impugned decree and the award need to be modified.

14. In the result, the appeal is allowed. The award and the decree dated 27.04.2004 in M.V.O.P.No.298 of 1997 is partly modified by setting aside the decree and the award against the appellant i.e., respondent No.2 before the Tribunal and dismissing claim against the insurance company / respondent No.2, while sustaining the award and the decree against the respondent No.1 therein. Since the amount already deposited by the appellant is 50% of the amount awarded and is not huge amount, this Court is of the view that there is no need to grant any permission to the appellant to recover the amount.

There shall be no order as to costs. Pending miscellaneous petitions, if any, shall stand closed.

B. S. BHANUMATHI, J

Dt. 30-04-2026
PNV