

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

**THURSDAY, THE THIRTIETH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE B V L N CHAKRAVARTHI



MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 2671 OF 2012

(Appeal under Section 173 of M.V.ACT against the Judgment and decree dated 03/02/2012 in M.V.O.P No.1141 of 2009 on the file of the Chairperson, Motor Accidents Claims Tribunal-cum-Principal District Judge, West Godavari, Eluru.)

Between:

1. Smt. Puli Venkateswaramma, W/o. late Bhaskara Rao, Female, Hindu, Housewife, Rio. D.No.25-1-10, Papasaheb Street, N.R. Pet, Eluru, West Godavari District.
2. Smt.Valca Ramadevi, W/o. Venkateswarlu, Female, Hindu, R/o. D.No.25-1-10, Papasaheb Street, N.R. Pet, Eluru, West Godavari District.
3. Pulli Krishna, S/o. late Bhaskara Rao, male, Hindu, No occupation and dependant, R/o. D.No.25-1-10, Papasaheb Street, N.R. Pet, Eluru, West Godavari District.

...PETITIONERS

AND

1. Sri Ch. Suresh, S/o. Narasimha Rao, Male, Hindu, Owner of the lorry bearing No. AP 16 TW 5929, R/O. Door No.8-51-3, Paritala Post, Kanchikacherla, Krishna District.
2. The New India Assurance Co. Ltd., rep. by its Divisional Manager, Divisional Office, Vijayawada. Krishna District.

...RESPONDENTS

Counsel for the Appellant(s): SRI. B V KRISHNA REDDY

Counsel for the Respondents: SRI G HARA GOPAL

The Court made the following: JUDGMENT

HONBLE SRI JUSTICE B.V.L.N. CHAKRAVARTHI

M.A.C.M.A.No.2671 OF 2012

J U D G M E N T:

Challenging the order dated 03.02.2012 passed in M.V.O.P.No.1141/2009 on the file of Motor Accidents Claims Tribunal-Prl.District Judge, West Godavari District, Eluru, the appellants/claimants filed the appeal.

2. The appellants/claimants filed claim petition before the learned Tribunal U/s.166 of Motor Vehicles Act, 1988 claiming compensation of Rs.5,00,000/- for the death of P.Bhaskara Rao, alleging that on 25.04.2008 at about 06.00 a.m. near Aganampudi village of Gajuwaka Mandal in Visakhapatnam District, while discharging his duties as driver of lorry bearing No.AP 16 TW 5929 belonging to the 1st respondent, which was insured with 2nd respondent, had heart attack, he stopped the above lorry by the side of road; 108 ambulance was called, staff of said ambulance examined him and declared him dead. Gajuwaka Police registered case in Cr.No.4180/2008 U/s.174 of Code of Criminal Procedure. The deceased was aged 55 years and earning Rs.10,000/- per month as driver of lorry. The 1st claimant is wife of the deceased and the claimants No.2 and 3 are the children of the deceased.

3. Before the learned Tribunal, the 2nd respondent/Insurance Company filed written statement, while traversing the material contended that the death of deceased did not take place due to an accident arising out of the use of motor vehicle and that the deceased was a heart patient by the date of his death and his death due to heart attack only.

4. The 1st respondent remained ex parte.

5. During pendency of the proceedings, the claimants amended the claim petition by adding section 167 of the Motor Vehicles Act.

6. On the strength of the pleadings of both parties, the Tribunal framed the following issues:

1. Whether the deceased Puli Bhaskara Rao died on account of use of lorry bearing No.AP 16 TW 5929 and if so, his legal heirs are entitled to claim compensation U/s.166 or any other provision under Motor Vehicles Act?
2. Whether the petitioners are the legal heirs and dependants of the deceased Puli Bhaskara Rao and if so, they entitled to claim compensation on account of death of deceased from respondents? and if so, to what amount?
3. Whether the petitioners are required to approach the Tribunal under Workmen's Compensation Act?

4. To what relief?

7. To substantiate their claim, the claimants examined P.Ws-1 to 3 and got marked Exs.A-1 to A-5. No oral or documentary evidence adduced on behalf of the 2nd respondent.

8. The learned Tribunal, taking into consideration the evidence of P.Ws-1 and 2, coupled with Exs.A-1 to A-5, held on issue Nos.1 to 3 that the claimants are not entitled for compensation either U/s.163-A, 166 of the Motor Vehicles Act 1988 or under the Workmen's Compensation Act, 1923 and the claimants are not having any option U/s.167 of M.V.Act and dismissed the petition.

9. The contention of the appellants/claimants is that the learned Tribunal erred in dismissing the claim petition in toto and ought to have allowed the same as the deceased while he was driving the motor vehicle is suffered heart attack, and hence, the same can be treated as motor accident and the claimants are entitled for compensation.

10. The contention of the 2nd respondent/Insurance Company is that the deceased died with heart attack, and therefore, the claimants are not entitled for any compensation and that the learned Tribunal basing on the facts and circumstances of the case, dismissed the claim

petition as per law, and it does not warrant any interference by this Court.

11. In the light of above rival contentions, the points that would arise for consideration in this appeal are as under:

1. Whether the order and decree passed by the learned Tribunal warrants interference of this Court?

2. To what relief?

12. **POINT No.1:**

The learned counsel for the appellants would submit that the learned Tribunal did not consider the evidence on record in proper perspective and came to an erroneous opinion that death is not related to the accident, and dismissed the claim petition.

13. The learned counsel for appellants relied on the following judgements:

1. High Court of Judicature, Andhra Pradesh at Hyderabad in the case of **Oriental Insurance Company Limited, Khammam Vs. Syed Yusuf and others** reported in 2007 (2) ALT 734.

2. High Court of Judicature, Andhra Pradesh at Hyderabad in the case of **Puppaa Naga Malleswara Kumari and others Vs. M.Rambabu and another** reported in 2012 ACJ 1134.

3. High Court of Judicature at Bombay, Nagpur Bench in F.A.No.1235/2008 in the case of **Maharashtra State Road Transport Corporation, Appelant Vs. Nasim Begum and others** reported in 2023 ACJ 860.

14. The facts and circumstances in the above said cases would show that "*there is no nexus between the death and the employment of the deceased*". It was further established that the "*deceased died a natural death and there is no evidence that the death occurred due to stress of work, cause related to employment in any manner*". In the said circumstances, the decisions referred above have no application to the facts of the appellants case.

15. The learned counsel Insurance Company would submit that even as per the averments of the petition and evidence of the claimants, the deceased died due to heart attack and not due to any injury sustained in the accident, and therefore, the death is a natural death and not related to any accident, and as such, the order and decree of the learned Tribunal does not suffer from any error either on facts or in law.

16. P.W-1 is the wife of the deceased. She deposed that her husband Puli Bhaskara Rao working as driver of lorry bearing No.AP 16 TW

5929 and on he reached Aganampudi village on 25.04.2008 on N.H.5 road, suddenly he was suffered heart attack and immediately he stopped the lorry on extreme left side road margin and 108 ambulance staff examined her husband and declared that he dead. Her husband died during the course of his employment and discharging his duties as driver of lorry No.AP 16 TW 5929. Her husband was aged about 55 years and earning Rs.10,000/- per month. In her cross-examination, she deposed that she was not present at the place where the deceased died on the date of incident.

17. The above material would show that the deceased died due to heart attack and it was a natural death. Therefore death is not related to any motor accident. Therefore, the finding of the learned Tribunal that the death is no way related to any motor accident to file a claim petition U/s.163-A or 166 of Motor Vehicles Act is sustainable on facts as well as in law.

18. The learned counsel for 2nd respondent/Insurance Company before the learned Tribunal relied upon a decision of High Court of Andhra Pradesh in the case of **Puppala Naga Malleswara Kumar and others Vs. M.Rambabu and another**¹, wherein it was held that the

¹ 2011 (2) ALT 760

claimants are not entitled for compensation either U/s.163-A of M.V.Act or under the Workmen's Compensation Act, 1923 and therefore, they are not having option U/s.167 of M.V.Act when the death of the deceased is not one resulting from an accident either during the course of employment or during the course of use of a motor vehicle and that it was due to natural cause of heart attack. The learned Tribunal applied the same to the present case, and opined that there was no accident at all during the course of employment or during the course of use of motor vehicle by the deceased and the death of such deceased was due to natural cause of heart attack.

19. The learned counsel for 2nd respondent/insurance company relied on a decision of **High Court of Judicature at Bombay, Nagpur Bench in F.A.No.1235/2008 dated 18.04.2002²**, wherein it was held that '*there shall be a reasonable nexus between death and work*'.

20. Considering the facts and circumstances of the case on hand, this Court is of the considered opinion that there are no grounds to interfere with the order and decree passed by the learned Tribunal. Accordingly, the point is answered.

² 2023 ACJ 860

21. **POINT No.2:** To what relief?

In the light of finding on point No.1, the appeal is liable to be dismissed.

22. In the result, the appeal is dismissed, by confirming the order and decree dated 03.02.2012 passed by the learned Tribunal in M.V.O.P.No.1141/2009 on the file of Motor Accidents Claims Tribunal-cum-Prl.District Judge, West Godavari District, Eluru. There shall be no order as to costs.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

SD/- M. SRINIVAS
ASSISTANT REGISTRAR

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SECTION OFFICER

To,

1. The Chairman, MACT-cum-Principal District Judge, West Godavari, Eluru.(With Records)
2. One CC to SRI. B V KRISHNA REDDY Advocate [OPUC]
3. One CC to SRI G HARA GOPAL Advocate [OPUC]
4. The Section Officer, VR Section, High Court of Andhra Pradesh at Amaravathi.
5. **THREE CD Copies**

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HIGH COURT

DATED:30/11/2023

ORDER

MACMA.No.2671 of 2012



THE MACMA IS DISMISSED WITHOUT COSTS

7 copies

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28/2/2024

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

THURSDAY ,THE THIRTIETH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE SRI JUSTICE B V L N CHAKRAVARTHI



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2. The New India Assurance Co. Ltd., rep. by its Divisional Manager, Divisional Office, Vijayawada. Krishna District.

...RESPONDENTS

Appeal Under Section 173 of M.V.Act against the Judgment and decree of the Court of the MACT-Cum-Pri District Judge West Godavari Eluru.

In M.V.Original Petition No.1141 of 2009 Dated:03/02/2012.

ORDER: This appeal coming on for hearing and upon perusing the grounds of appeal, the Judgment and Decree of the Lower Court and the material papers in the Suit and upon hearing the arguments of Sri B.V.Krishna Reddy for the appellant and of Sri G.Hara Gopal for the Respondents.

The Court doth Order and Decree as follows:

1. That the MACMA be and here by is Dismissed.

2. That the order and Decree passed by the Tribunal in MVOP No.1141/2009 on 03/02/2012 on the file of MACT-cum-Prl District Judge West Godavari Eluru is confirmed.
3. That there be no order as to costs.

**SD/- M. SRINIVAS
ASSISTANT REGISTRAR**

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SECTION OFFICER

To,

1. The Chairman, MACT-cum-Principal District Judge, West Godavari, Eluru.(With Records)

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HIGH COURT

DATED:30/11/2023

ORDER

MACMA.No.2671 of 2012



THE MACMA IS DISMISSED WITHOUT COSTS

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28/2/2024