

(1993) 08 AP CK 0008
In the Andhra Pradesh High Court
Case No : A.A.O. No. 502 of 1990

Andhra Pradesh State Road Trans. Corpn.	APPELLANT
Vs	
Azizunnisa Begum and Others	RESPONDENT

Date of Decision : 30-08-1993

Acts Referred:

Citation : (1995) ACJ 40

Hon'ble Judges : B. Subhashan Reddy, J

Bench : Single Bench

Advocate : A. Vayajayanthi, for the Appellant; K.S.N. Murthy, for the Respondent

Judgement

B. Subhashan Reddy, J.—This civil miscellaneous appeal is filed by the Andhra Pradesh State Road Transport Corporation against the award made by the Motor Accidents Claims Tribunal, Adilabad, dated 4.1.1990 in O.P. No. 133 of 1988 for the death of one Shaik Mahboob, driver of the jeep bearing No. AHY 230/ belonging to the 5th respondent herein. While the deceased was driving the said jeep on 30.4.1988 at about 8.15 p.m. on the road from Adilabad towards Nirmal at Ghat Road of Gudinathnur, it met with an accident with A.P.S.R.T.C. bus bearing No. AAZ 7603 resulting in the death of the said Shaik Mahboob. In so far as the jeep is concerned, the insurance of the same is denied by the New India Assurance Co. Ltd., the 6th respondent herein, and there is no proof adduced in support of the plea that the said jeep was insured with the said insurer. As such, no liability can be fastened to the said insurer. In so far-as the A.P.S.R.T.C. is concerned, no fault liability can be fastened. But the Motor Accidents Claims Tribunal has awarded the amount of Rs. 25,000/-. The amount of Rs. 25,000/- is stipulated only under the new Motor Vehicles Act, which came into force from 1.7.1989. As such, the new Act will not cover this accident which occurred on 30.4.1988. As on that date, the Act which was in operation stipulated only Rs. 15,000/- as no fault liability. But the Motor Accidents Claims Tribunal has awarded Rs. 25,000/- even while holding that the claimants cannot get more than Rs. 15,000/- under no fault liability. The Claims Tribunal, at para 23 of its

judgment, observed as follows:

In the light of this evidence, the petitioners can at the most get Rs. 15,000/- under no fault liability. Now that under the new Motor Vehicles Act, the no fault liability in the case of fatal accident is enhanced to Rs. 25,000/-, but the benefit of the new Motor Vehicles Act may not be strictly applicable. But liberally considering, I am of the view that award of Rs. 25,000/- as compensation to the petitioners would be fair and reasonable compensation for the death of Shaik Mahboob in the accident.

This finding of the Claims Tribunal is absurd and baseless. When the new Act did not come into force as on the date of accident, i.e., on 30.4.1988 and when the substantive law stipulates only Rs. 15,000/- as no fault liability, it is none of the business of the Tribunal to just gift away Rs. 10,000/- more stating that it considered that the amount of Rs. 25,000/- is just and reasonable. The Claims Tribunal is not a legislative authority to just sanction the amount as it pleases. The new Motor Vehicles Act is not procedural, it is substantive Act. While there is a presumption that new procedural laws can be made applicable to the pending cases, in the case of substantive law, the situation is entirely different. Unless the substantive law states expressly that the same is retrospective in operation, the same cannot operate retrospectively. Even by necessary implication, it cannot be said that the new Motor Vehicles Act is retrospective in operation. In the circumstances, I reverse the finding of the Claims Tribunal and hold that the new Motor Vehicles Act is not applicable to the instant accident.

2. In view of what is stated supra, I reduce the compensation of Rs. 25,000/- under no fault liability to that of Rs. 15,000 payable jointly and severally by the appellant and respondent Nos. 4, 5 and 7. The appellant and respondent Nos. 4, 5 and 7 shall pay the same within two months from the date of receipt of this order.

The civil miscellaneous appeal is allowed in part. No order as to costs.