
(2003) 08 AP CK 0073
In the Andhra Pradesh High Court
Case No : CMA No. 3093 of 2003

Kuppala Srinivasa Rao

APPELLANT

Vs

Lingala Amruthamma and Others

RESPONDENT

Date of Decision : 27-08-2003

Acts Referred:

Motor Vehicles Act, 1988 — Section 140
Penal Code, 1860 (IPC) — Section 304A

Citation : (2004) 1 ACC 483 : (2004) ACJ 1841 : (2003) 6 ALD 786 : (2003) 6 ALT 246

Hon'ble Judges : C.Y. Somayajulu, J

Bench : Single Bench

Advocate : K. Vinayay Kumar, for the Appellant;

Final Decision : Dismissed

Judgement

C.Y. Somayajulu, J.—This appeal arises out of the award dated 3-4-2003 in O.P. No. 402 of 2001 on the file of the Motor Accidents Claims Tribunal cum First Additional District Judge, Khammam filed u/s 140 of the Motor Vehicles Act (for short "the Act") by the respondents against the appellant.

2. The case in brief of the respondents is that on 28-5-1999 when Lingala Janardhan, husband of the first respondent and father of the Respondents 2 to 4 (the deceased), was proceeding on the motorcycle bearing No. A.P.20-A-9922 belonging to the appellant the vehicle met with an accident due to the rash and negligent driving of the appellant resulting in injuries and consequential death of the deceased and that police registered a case in Crime No. 78 of 1999 u/s 304-A IPC against the appellant in connection with the said accident and so they are entitled to Rs. 50,000/- as compensation u/s 140 of the Act.

3. The appellant filed his counter denying the averments in the petition and contending that the accident did not occur due to his rash and negligent driving of the motorcycle. The Tribunal framed three issues for trial and in support of the case of the respondents one witness was examined as PW1 and Exs.A1 to A5

were marked and in support of his case the appellant examined himself as RW1 but did not adduce any documentary evidence. The Tribunal held on issue No. 1 which was originally framed as "whether the deceased by name Lingala Janardhan died due to rash and negligent driving of Bajaj Kawasaki motorcycle AP20-9922 by its driver respondent" and recast as "whether the deceased by name Lingala Janardhan died in a motor accident caused by the respondent herein", that the deceased died in motor accident caused by the appellant and consequently held on the other issues that respondents are entitled to Rs. 50,000/- as compensation from the appellant.

4. The contention of the learned Counsel for the appellant is that since the appellant is not responsible for the accident, there is no cause of action for the respondent to file O.P. against the appellant, more so because CC No. 685 of 1999 filed against the appellant in connection with the accident ended in acquittal of the appellant. It is his contention that since the Tribunal did not record any reasons to come to the conclusion that the appellant is liable to pay compensation to the respondents, the award under appeal is not sustainable.

5. With respect I am unable to agree with the contentions raised by the learned Counsel for the appellant. Section 140 of the M.V. Act reads thus:

"140. Liability to pay compensation in certain cases on the principle of no fault :--

(1) Where death or permanent disablement of any person has resulted from an accident arising out of the use of a motor vehicle or motor vehicles, the owner of the vehicle shall, or, as the case may be, the owners of the vehicles shall, jointly and severally, be liable to pay compensation in respect of such death or disablement in accordance with the provisions of this section.

(2) The amount of compensation which shall be payable under Sub-section (1) in respect of the death of any person shall be a fixed sum (fifty thousand rupees) and the amount of compensation payable under that subsection in respect of permanent disablement of any person shall be a fixed sum of (twenty five thousand rupees).

(3) In any claim for compensation under Sub-section (1), the claimant shall not be required to plead and establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act, neglect or default of the owner or owners of the vehicle or vehicles concerned or of any other person.

(4) A claim for compensation under Sub-section (1) shall not be defeated by reason of any wrongful act, neglect or default of the person in respect of whose death or permanent disablement the claim has been made nor shall the quantum of compensation recoverable in respect of such death or permanent disablement be reduced on the basis of the share of such person in the responsibility for such death or permanent disablement.

(5) Notwithstanding anything contained in Sub-section (2) regarding death or

bodily injury to any person, for which the owner of the vehicle is liable to give compensation for relief, he is also liable to pay compensation under any other law for the time being in force:

Provided that the amount of such compensation to be given under any other law shall be reduced from the amount of compensation payable under this section or u/s 163-A".

In view of Sub-section (3) of Section 140 of the Act there is no need for the respondents to plead or establish that the death of the deceased occurred due to any wrongful act, neglect or default on the part of the owner of the vehicle i.e., the appellant.

6. Even assuming that the appellant was not driving the vehicle at the time of accident and that it was being driven by somebody else, appellant as the owner of the vehicle involved in the accident is liable to pay compensation u/s 140 to the respondents. Therefore, the fact that the appellant was acquitted in CC No. 685 of 1999 filed against him u/s 304-A IPC in connection with the death of the deceased is of no consequence, when the fact of the deceased dying as a result of the use of the vehicle belonging to the appellant is not denied or disputed and in fact is admitted, question of appellant avoiding liability u/s 140 of the Act does not and cannot arise, more so because no other vehicle was involved in the accident. If any other vehicle was involved in the accident, it can be said that the owner of the other vehicle that was involved in the accident should also be made liable for payment of compensation. When one vehicle only was involved in the accident question of apportioning the liability between the two owners of the vehicles does not arise.

7. Therefore, the Tribunal awarding compensation u/s 140 of the Act against the appellant cannot be said to be erroneous and needs no interference by this Court.

8. Hence the appeal is dismissed. No costs.