

(2011) 12 AP CK 0092
In the Andhra Pradesh High Court
Case No : M.A.C.M.A. No 3693 of 2011

Miniseti Nageswaramma Rao

APPELLANT

Vs

V. Ramaiah and Others

RESPONDENT

Date of Decision : 13-12-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125
Motor Vehicles Act, 1988 — Section 166

Citation : (2012) ACJ 2586 : (2012) 2 ALD 329

Hon'ble Judges : N.R.L. Nageswara Rao, J

Bench : Single Bench

Advocate : K. Ananda Rao, for the Appellant; Srinivasa Rao Vutla, Standing Counsel, for the Respondent No. 2 and None for the Respondent Nos. 3 and 5, for the Respondent

Final Decision : Allowed

Judgement

N.R.L. Nageswara Rao

1. The appeal is filed by the 1st petitioner in O.P.No.2 of 1999 on the file of the Motor Accidents Claims Tribunal-cum-I Additional District Judge, Ongole, challenging the award of the Tribunal in refusing to grant apportionment of the quantum compensation.

2. A claim for compensation of Rs. 1,50,000/- was filed consequent on the death of the deceased M. Hanumantha Rao in a lorry accident on 22.07.1998. The appellant herein is the 1st petitioner. The 2nd petitioner, who is said to be the mother of the deceased, has died and the 3rd petitioner is the 1st wife of the deceased. The lower Tribunal after considering the material on record granted a compensation of Rs. 1,50,000/-. But, however, refused to grant any part of the compensation to the appellant as she is not the legally wedded wife. Aggrieved by the said award, the present appeal is filed.

3. The point for consideration is whether the appellant is entitled for any

apportionment of the compensation?

4. POINT:

It is to be noted that the petition has been filed by the 1st wife and the 2nd wife together before the lower Tribunal claiming compensation. They have no conflict of interest. It is true that there may not be legal divorce with the 1st wife as found by the lower Tribunal. But, however, while considering the a claim u/s 166(c) of the Motor Vehicles Act and considering the definition of legal representatives, it is useful to refer to the decision reported in Mrs. Hafizun Begum Vs. Md. Ikram Heque 2007 (5) Supreme 498, wherein it was held that the definition of legal representative has a wider meaning and one who suffers on account of the death of a person due to a motor vehicle accident is a legal representative and need not necessarily be a wife, husband, parent and child. That being so, when admittedly, the appellant is said to be living with the deceased and dependant on him and which was also admitted by the 1st wife, there is no reason as to why she should have been denied the right of apportionment. Further-more, while considering the claim u/s 125 of the Criminal Procedure Code, the Hon"ble Supreme Court has held in Chanmuniya Vs. Chanmuniya Virendra Kumar Singh Kushwaha and Another, that even though there is no valid marriage still a living relationship between a man and woman entitles the wife for maintenance against the husband that being change of trend of law. The award of the lower Tribunal in refusing apportionment does not stand for scrutiny.

5. Accordingly the appeal is allowed and a sum of Rs. 75,000/- is apportioned to the share of the appellant herein and if such amount is not available whatever amount is available as on date shall apportioned to the share of the appellant herein. No costs.