
(1993) 04 AP CK 0003
In the Andhra Pradesh High Court
Case No : C.M.A. No. 949 of 1986

United India Insurance Co. Ltd.

APPELLANT

Vs

Anipeddi Dhanalakshmi and Others

RESPONDENT

Date of Decision : 30-04-1993

Acts Referred:

Motor Vehicles Act, 1988 — Section 110A, 110AA

Citation : (1994) 2 ACC 673 : (1994) ACJ 98

Hon'ble Judges : G. Radhakrishna Rao, J

Bench : Single Bench

Advocate : Hanumaiah and E. Venugopal Reddy, for the Appellant; A. Krishna Murthy, for the Respondent

Final Decision : Allowed

Judgement

G. Radhakrishna Rao, J.—This is an appeal preferred by the appellant insurance company having been aggrieved by the judgment and decree dated 31.3.1986 passed in O.P. No. 83 of 1984 on the file of the First Additional District Judge-cum-Motor Accidents Claims Tribunal, Visakhapatnam, awarding a compensation of Rs. 20,000/- to the 1st petitioner and at Rs. 15,000/- to each of petitioners 2 and 3.

2. On 16.11.1983 at about 3.30 p.m. when the deceased and his friend were proceeding on the motor cycle bearing No. ATV 5098 along the left side of the road a lorry bearing No. ABK 5999 driven by the first respondent and belonging to the second respondent came at a high speed in a rash and negligent manner in the opposite direction and dashed against the motor cycle of the deceased. On account of this accident, the deceased died on the spot.

3. The short point that arises for consideration in this appeal is whether the claimants, having obtained an award from the Commissioner under the Workmen's Compensation Act, can be permitted to avail the remedy that is available u/s 110-A of the Motor Vehicles Act. In this connection, it is relevant to

extract Section 110-AA of the Motor Vehicles Act which is in the following terms:

110-AA. Option regarding claims for compensation in certain cases. Notwithstanding anything contained in the Workmen's Compensation Act, 1923 (8 of 1923), where the death of, or bodily injury to, any person gives rise to a claim for compensation under this Act and also under the Workmen's Compensation Act, 1923, the person entitled to compensation may without prejudice to the provisions of Chapter VII-A claim such compensation under either of these Acts but not under both.

Thus, Section 110-AA gives an option to the claimants or the injured person, as the case may be, to choose the forum either to approach the Motor Accidents Claims Tribunal or to approach the Commissioner under the Workmen's Compensation Act but he cannot approach both the forums. In this case the petitioners have admittedly approached the Commissioner under the Workmen's Compensation Act and obtained an award. Section 110-AA provides that the claimant shall have option to pursue his claim under either of the Acts but not under both. The language of this section is very clear. Parliament in its wisdom intended that it was not desirable to allow a workman or his dependants or heirs to claim compensation under both the Acts. Thus, a person who is entitled to compensation under either of the Acts cannot claim compensation under both the Acts. He must choose one of the two forums. Whether the claim made under one Act or the other, the liability of the insurance company remains the same. In this case, as already stated, the petitioners having approached the Commissioner under the Workmen's Compensation Act and obtained an award, they cannot be permitted to approach the Tribunal constituted under the Motor Vehicles Act. The Tribunal went wrong in entertaining the O.P. and granting the compensation under the Motor Vehicles Act when the petitioners have already availed the option and claimed compensation under Workmen's Compensation Act. The mere fact that the Motor Accidents Claims Tribunal granted higher amount than the Commissioner under the Workmen's Compensation Act does not permit the claimants to make a claim for the difference even.

4. The judgment of the Tribunal is, therefore, set aside and the C.M.A. is allowed. No costs.