
(1986) 12 AP CK 0022

In the Andhra Pradesh High Court

Case No : Civil Revision Petition No"s. 2939 and 2940 of 1984

United India Insurance Co. Ltd.

APPELLANT

Vs

Katukuri Raghavareddy and Others

RESPONDENT

Date of Decision : 24-12-1986

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115
Motor Vehicles Act, 1939 — Section 110

Citation : (1989) ACJ 448 : AIR 1989 AP 33

Hon'ble Judges : K. Ramaswamy, J

Bench : Single Bench

Advocate : S. Venkata Reddy, for the Appellant; G. Narayana Reddy, for the Respondent

Final Decision : Dismissed

Judgement

1. Sri Narayana Reddy learned counsel for the respondent 1 raised a preliminary objection to the maintainability of the revision. He contends that the Motor Accidents Claims Tribunal, constituted u/s 110 of the Motor Vehicles Act (Act 4 of 1939) for short, "the Act", is not a court subordinate to High Court amenable to jurisdiction u/s 115 of the C.P.C. In-support thereof, he placed reliance on Revanappa Vs. Gunderao and Others, . Admittedly under the Act, there is no special procedure provided for disposal of the O.Ps. The District Court is constituted as a Tribunal to decide the claims under the Act. The procedure under the C.P.C. is to be followed It is now well established that no special procedure has been prescribed and the claims under special statutes are to be adjudicated by regular court as a Tribunal, all the incidents provided under the CPC would follow. This view has been consistently followed by this court starting from The Public Prosecutor v. Ramayya(2) 1975 Cri LJ 144 (FB) and catena of decisions subsequent thereto. Ramayya"s ratio was approved by the Supreme Court in Thakur Das (Dead) by Lrs. Vs. State of Madhya Pradesh and Another, . In Ramayya"s case as stated earlier, the District Judge is constituted as a regular Tribunal but not as persons designata under the Act. He has to follow the

procedure prescribed in trying the cases, under the Code of Civil Procedure. Therefore, the Tribunal is a court subordinate to High Court and amenable to revisional jurisdiction u/s 115 C.P.C. The ratio on which reliance is placed by the learned counsel, viz., Revanappa Vs. Gunderao and Others, , I am unable to accede and with due respect, I dissent from the view taken in that case. Accordingly, I hold that the CRPs. are maintainable.

2. Sri Venkat Reddy, learned standing counsel for the insurance company, contends that the capacity of the van is seven. Whereas the passengers carried in it were seventeen. The deceased have contributed for the accident and, therefore, the insurance company is not liable to the full compensation but only a proportionate rate. Unfortunately, no plea was taken before the Tribunal below; no issue has been cast and no evidence is recorded in that regard. Therefore, for the first time, this point cannot be urged in this court.

3. It is next contended that the deaths were on account of the rash and negligent driving of the driver and also due to overloading. The Tribunal below has considered the entire evidence and recorded the finding that the accident was due to rash and negligent driving, as a result, precious lives have been lost. This is a finding of fact based on appreciation of evidence and there is no illegality or error of jurisdiction, warranting interference.

4. The CRPs are accordingly dismissed, but in the circumstances, without costs.