

(2011) 12 AP CK 0018

Andhra Pradesh High Court

Case No: CMA. No. 768 of 1999

Gangineni Pitchamma
and Gangineni
Pedabrahmam

APPELLANT

Vs

Palla Balakrishna and
The National
Insurance Co. Ltd

RESPONDENT

Date of Decision: Dec. 9, 2011

Acts Referred:

- Motor Vehicles Act, 1988 - Section 112, 140, 163, 166, 2(34)

Citation: (2013) 2 ACC 306 : (2013) ACJ 30 : (2012) 3 ALT 652

Hon'ble Judges: L. Narasimha Reddy, J

Bench: Single Bench

Advocate: N. Subba Rao, for the Appellant; Samineni Kishore, Standing Counsel, for the Respondent No. 2, None, for the Respondent No. 1, for the Respondent

Final Decision: Allowed

Judgement

L. Narasimha Reddy

1. One Mr. Gangineni Kotaiah, husband of the 1st appellant and father of the 2nd appellant is a resident of Khambhampadu Village, Nuzendla Mandal, Guntur District. On 03.01.1996 at 8:00 pm., he was standing in his field. A tractor bearing No. ADW 5962, owned by the 1st respondent, is said to have dashed against Kotaiah and that he was shifted to Government Hospital, Vinukonda for treatment and later on, he was treated in Government Hospital, Guntur. Kotaiah is said to have died on 04.01.1996 at 6:00 pm. The appellants filed M.V.O.P.No. 196 of 1996 before the Motor Accident Claims Tribunal-cum-IV Additional District Judge, Guntur, claiming compensation of Rs. 50,000/-. The 1st respondent remained ex parte and the 2nd respondent contested the OP. It denied the liability, on the ground that the accident

did not occur in a public place Through order, dated 23.09.1999, the Tribunal dismissed the O.P. on the ground that the accident has taken place in an agricultural field and Section 140 of the Motor Vehicles Act (for short "the Act") does not get attracted. Hence, this appeal.

2. Heard Sri N.Subba Rao, learned counsel for the appellants and Sri Samineni Kishore, learned counsel for the 2nd respondent.

3. The occurrence of the accident and the death of Kotaiah therein are not disputed. On behalf of the appellants, P.Ws.1 and 2 were examined and the documents pertaining to registration of case and post mortem certificate are filed as Exs.A.1 to A.3. The 2nd respondent itself filed a copy of the insurance policy marked as Ex.B. 1. The only question was as to whether the respondents can be held liable to pay compensation, if only the accident had occurred in a public place.

4. The expression "public place" occurs in various provisions of the Act, such as Section 3 dealing with driving licence, Section 39 pertaining to registration, Section 112 stipulating the limits of speed. Payment of compensation to the injured or dependents of the deceased in an accident is dealt with under Chapters X to XII of the Act. Even in certain Sections occurring in those Chapters, reference is made to the expression "public place", such as 147, that speaks of the requirement of insurance policies and limits of liability.

5. Section 140 of the Act is a typical provision, which fastens liability upon the owner of a motor vehicle, where death or permanent disability to any person has resulted on account of accident arising out of the use of the vehicle. Unlike in the claims filed under Sections 163 or 166 of the Act, it is not necessary to prove the negligence on the part of the driver or owner of the vehicle, in claims presented u/s 140 of the Act. The provision reads as under:

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.

(sub-sections (2) to (5) are omitted, since they are not necessary for the purpose of this case)

6. Though the expression "public place" has been employed in various provisions of the Act, dealing with the use of motor vehicles, the Parliament had expressly omitted the same in Section 140 of the Act. The result would be that the liability to pay compensation under that provision would arise, whether or not the accident occurred in a public place or in a purely private place. Therefore, the view taken by the Tribunal that the compensation is not payable, since the accident occurred in an

agricultural field cannot be sustained.

7. Even otherwise, the definition of "public place" under sub-section (34) of Section 2 of the Act is too wide in its purport. It not only takes into its fold, the roads, streets or other public place, but also any place to which public have a right of access and includes any place or stand at which passengers are picked up. In the context of social security measure provided for under Chapters X to XII of the Act, a liberal interpretation needs to be adopted and any place, which is not purely private in nature or to which the ordinary people cannot have access without specific permission, deserves to be treated as a public place. Therefore, the C.M.A. is allowed and respondents 1 and 2 are held jointly and severally liable to pay a sum of Rs.50,000/- as compensation with interest at the rate of 7% per annum from the date of filing of the O.P. The first appellant alone shall be entitled to be paid the compensation. There shall be no order as to costs.