HONOURABLE SRI JUSTICE A. RAMALINGESWARA RAO

M.A.C.M.A. No. 2034 OF 2005

DATED 9TH December, 2015

BETWEEN

Grandhi Venkayya and ors

…Appellants

And

Annam Ramu and ors

…Respondents.

HONOURABLE SRI JUSTICE A. RAMALINGESWARA RAO

M.A.C.M.A. No. 2034 OF 2005

JUDGMENT:

The appellants herein are the claimants in MVOP.No.848 of 2001 on the file of the Motor Accident Claims Tribunal-cum-II Additional District Judge, East Godavari District at Rajahmundry. The said OP was filed by the claimants claiming compensation of Rs.1,00,000/- on account of death of their minor son in a motor vehicle accident that occurred on 26.10.2001. It was alleged in the claim petition that on 26.10.2001 when the deceased boy was returning to home from his maternal grand parents house along with his junior paternal uncle in a goods vehicle, the said goods vehicle met with an accident at about 12.20 PM, due to which, the boy died and his uncle suffered injuries.

The Tribunal on the basis of the oral and documentary evidence held that the accident occurred due to rash and negligent driving of the goods vehicle by its driver. In the process of assessment of compensation, the Tribunal awarded an amount of Rs.1,00,000/- against driver and owner of the goods vehicle. The Tribunal held that the third respondent-Insurance Company is not liable to pay any compensation since there is no statutory obligation on the Insurance Company to issue policy carrying the deceased boy in the goods vehicle.

Now the present appeal is filed challenging the exoneration of the Insurance Company from liability.

Admittedly the deceased body was travelling in a goods vehicle along with his junior paternal uncle. The Tribunal noticed that the Policy issued by the Insurance Company does not cover such gratuitous passenger travelling in a goods vehicle. The learned Counsel for the appellants submits that atleast the Insurance Company should have paid the compensation awarded by the Tribunal and recovered the same from the owner of the goods vehicle. Such pay and recovery principle cannot be made applicable for such gratuitous passengers having traveling in a goods vehicle inasmuch as the Insurance Company is not liable to issue any policy under law as was held by the Apex Court in the case of National Insurance Company Vs. Bommadi Subbayamma {(2005)12 SCC 243}.

In that view of the matter, the appeal is liable to be dismissed and is accordingly dismissed. Miscellaneous petitions pending consideration if any in the appeal shall stand closed in consequence. No order as to costs.

JUSTICE A. RAMALINGESWARA RAO

DATED 9th December, 2015.
Msnrx