

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

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MACMA. No.224 of 2007

JUDGMENT:

The petitioners preferred the instant appeal aggrieved of the order dated 24.11.2006 passed in O.P.No.165 of 2004 by the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, Adilabad (for short, 'the Tribunal'), whereby and whereunder the compensation was awarded basing on no fault liability under Section 140 of the Motor Vehicles Act, 1988 against respondents 1 and 2 while holding that the petitioners 3 and 4 are not entitled for any compensation.

2. The appellants herein are the petitioners before the Tribunal, while respondents 1 and 2, who are the owner and insurer of the motorcycle bearing No.AP 01 7152 were the respondents respectively, in the original petition.

3. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the original petition.

4. On issue No.2, the Tribunal found that the rider of the motorcycle was not the owner of the motorcycle and was not having valid driving licence and that the deceased was pillion rider at the relevant time and that the risk was not covered by the policy issued by the 2nd respondent in favour of the 1st respondent.

5. Learned counsel for the appellants submitted that the Insurance Regulatory and Development Authority by its proceedings/communication No.IRDA/NL/F&U/078/12/2009, dated 03.12.2009, instructed the insurance companies for strict compliance of the circular orders in view of the admitted liability of all the general

insurance companies doing motor insurance business in respect of the occupants of a private car and pillion rider on a two wheeler under the comprehensive/package policies.

6. Perused the order under challenge and the oral and documentary evidence adduced by the petitioners. The occupants of a private car and pillion rider on a two wheeler under the said policy would cover risk of the occupant and insurance company is liable. In the instant case, no original policy is filed. Ex.B.1-insurance policy does not contain the same. Learned counsel for the appellant brought to the notice of this Court while showing record that the policy is package policy which endorsement is not occurring on Ex.B.1. The said document is a Photostat copy and original was not filed into Court. Therefore, it is a fit case which requires to be remitted.

7. Hence, the appeal is disposed of setting aside the order and decree dated 24.11.2006 passed by the Tribunal in O.P.No.165 of 2004 and the matter is remitted to the Tribunal with a direction to dispose of the original petition, within a period of six months from the date of receipt of a copy of the order. The Tribunal is further directed to afford an opportunity to both sides to lead further evidence, if any, both, oral and documentary. There shall be no order as to costs.

8. As a sequel thereto, miscellaneous applications, if any, pending in the appeal, stand disposed of.

A. SHANKAR NARAYANA, J

Dated: 23.02.2015.

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