

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.2684 of 2009

ORDER:

Heard the learned counsel for the petitioner. None appears for 1st respondent even though notice on 1st respondent has been served.

2. This Revision Petition is filed challenging the Order dt.26-11-2008 in MVOP No.1306 of 2006 of the Motor Vehicle Accidents Claims Tribunal-cum-IX Additional District Judge (FTC), Guntur District.
3. The 1st respondent herein suffered an accident at 5 a.m. on 27-08-2006 when an auto owned by 2nd respondent hit him and caused him injuries. At the time of the accident, the auto in question was not insured. At 1 p.m. on the same day, it appears that 2nd respondent obtained insurance from the petitioner suppressing the fact the vehicle had been involved in an accident a few hours prior thereto. The 1st respondent sought Rs.1.00 lakh compensation from both the petitioner as well as 2nd respondent. By Order dt.26-11-2008, the Tribunal awarded Rs.9,000/-, directed the petitioner to pay the same to 1st respondent and recover from 2nd respondent the said amount.
4. Challenging the same, this Revision Petition is filed.
5. Learned counsel for the petitioner would contend that the policy in question was obtained by 2nd respondent from the petitioner company after the accident had occurred wherein injuries were caused to 1st respondent; therefore, at the time of the accident, there was no policy in force and so there is no

question of the petitioner paying any amount to 1st respondent as compensation for the injuries suffered by him.

6. I find force in the submission of the learned counsel for the petitioner.
7. From Ex.B-2, cover note of the injured vehicle, it is clear that the insurance was affected on the auto in question at 1 p.m. on 27-08-2006, eight hours after the accident. Obviously it was obtained by suppressing the fact that the vehicle was already involved in the accident. Therefore, at the time of the accident the vehicle in question was not covered by the policy. The 2nd respondent had thus played fraud on the petitioner and secured the policy.
8. Therefore, the award of the Tribunal dt.26-11-2008 in M.V.O.P.No.36 of 2006 insofar as it directed the petitioner to satisfy the award first and then recover from 2nd respondent cannot be sustained. It is declared that the petitioner has no liability towards 1st respondent and that it is only for 2nd respondent to satisfy the decree obtained by 1st respondent.
9. For the above reasons, the Civil Revision Petition is allowed. No costs.
10. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 08-06-2015

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