THE HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

M.A.C.M.A.No.2611 of 2011

JUDGMENT:

When the matter came up for hearing learned counsel for appellant/Insurance Company, Sri Kota Subba Rao submitted that the policy copy furnished to him by the Insurance Company reveal that it was not '*act policy*' but it was '*package policy*' covering the date of accident. Learned counsel submitted that basing on it appeal may be decided.

2) It is seen that accident was occurred on 08.02.2003 when the deceased was driving the scooter of 1st respondent with a pillion rider behind and on the way he lost control over the scooter and hit the stationary tractor in between Budampadu village and Narakoduru village resulting in grievous injuries to the deceased.

3) Before the trial Court, the Insurance Company contended that the accident was occurred due to the fault of deceased himself and as such claimants who are LRs. of the deceased are not entitled to compensation. It was also contended that claimants must prove that there was coverage of policy in respect of deceased.

4) A perusal of the judgment shows that lower Tribunal has come to the conclusion that deceased died due to the accident. The Tribunal observed that the Insurance Company failed to produce the policy copy into the Court to establish that risk of third party was not covered under it and in the absence of the policy it cannot be said that the 2nd respondent was not statutorily liable to pay compensation to the claimants. It further observed that the facts would show that the accident occurred while the deceased lost control over the vehicle as his eyesight was disturbed by the light of the opposite vehicle and he went and hit the

roadside tractor and he died in a motor vehicle accident and the Insurance Company having undertaken the liability to compensate is bound to compensate the legal heirs of the deceased. Accordingly, the lower Tribunal awarded compensation of Rs.1,30,000/- with proportionate costs and interest at 7% p.a.

5) Challenging the said award the instant appeal is filed. Now, learned counsel for appellant submitted that the policy copy furnished to him would show that it is a comprehensive policy. Even though such submission is made, policy copy is not produced before this Court. However, as per the submission of learned counsel, it is a comprehensive policy and hence the liability of Insurance Company exists.

6) In these circumstances, I find no merits in the appeal and accordingly, this MACMA is dismissed by confirming the award passed by the lower Tribunal. No costs in the appeal.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 22.09.2015
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