HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

MACMANo.1984 of 2005

Date: 08-12-2015

Between:

The Divisional Manager, National Insurance Company Ltd., represented by its Deputy Manager

.... Appellant

AND

Harijana Krupamma and 5 others

.... Respondents

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

MACMANo.1984 of 2005

ORDER:

This appeal is preferred by the Insurance Company challenging the award dated 07-10-2004 passed by the Motor Accident Claims Tribunal-cum-I Additional District Judge , Kurnool in O.P.No.174 of 2003.

The present appeal arose out of common award dated 07-10-2004 in MVOP.No.174 of 2003, which was filed by the respondents 1 to 6 claiming compensation of Rs.2,50,000/- for the death of the husband of the 1st respondent herein and father of respondents 2 to 6 in a motor accident that occurred on 26-12-2002. The deceased was aged about 40 years and was working as Hamali in a Rice Mill. He engaged an auto bearing No.AP-21-T-7638 and when the auto crossed ITC farm House, a lorry bearing No.AP-16-TT-767 came from opposite direction in a rash and negligent manner and in high speed and dashed against the auto, which resulted in receiving grievous injuries by the inmates of the auto. When the husband of the 1st respondent herein was taken to Government General Hospital, Kurnool for treatment, he died on 30-12-2002 while undergoing treatment. The Tribunal famed the following issues:

1) Whether the accident occurred due to rash and negligent driving of the driver of the lorry bearing No.AP-16-TT-767 (10 tyres of lorry)

2) Whether the petitioners are entitled for compensation and if so, to what amount and from which of the respondents?

3) To what relief?

The Tribunal delivered a common award in respect of MVOP.No.172 of 2003 and MVOP.No.174 of 2003.

With regard to the compensation payable to the dependents of the deceased, the Tribunal noticed that he was aged about 40 years on the date of the accident based on Ex.A.3-Post Mortem certificate. The Tribunal awarded an amount of Rs.2,33,000/- along with interest at 9% p.a. from the date of petition till the date of realization by taking the income of the deceased at Rs.1,500/- per month after deducting 1/3rd towards his personal expenses and applying the multiplier of 16. The Tribunal held that the 2nd respondent-insurance company had to satisfy the award and recover the amount from the owner of the vehicle by way of filing execution petition. It noticed that the owner of the vehicle obtained policy by playing fraud on the insurance company.

It is clear from the evidence on record that Ex.B.2-policy was in force from 26-12-2002 to 25-2-2003 until it was cancelled. It appears that the policy was obtained on 26-12-2002 at 7.45 P.M. when the accident occurred at 4.30 A.M. on the same day. In those circumstances, the Tribunal held that though the owner of the vehicle obtained policy by not disclosing the fact of occurrence of the accident since the policy was in force as on the date of accident, the insurance company is liable to pay compensation and recover the same from the owner of the vehicle. The said finding recorded by the Tribunal is not erroneous in the facts and circumstances of the case, and hence, the award does not call for any interference and the appeal is liable to be dismissed.

Accordingly, the appeal is dismissed. No costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 08-12-2015

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