

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

C.M.A.No.1173 of 2004

JUDGMENT :

The claimant filed this appeal having been aggrieved by the Order/Award of the learned Chairman of the Motor Accidents Claims Tribunal–cum-District Judge, Nellore (*for short, 'Tribunal'*) in O.P.No.553 of 1999 dated 18.02.2002, awarding compensation of Rs.55,000/- (Rupees Fifty thousand only) with interest at 12% per annum for the property damage (car No.AEW 5958 of the claimant) claimed of Rs.1,00,000/- and of which while confining the liability for Rs.6,000/- against the 2nd respondent (insurer), fixed remaining Rs.49,000/- on the 1st respondent (owner of the van bearing No.AP 03 V 937 of the claim petition filed under Section 166 of the Motor Vehicle Act, 1988 (*for short, 'the Act'*)).

2. The contentions in the grounds of appeal as well as oral submissions by the counsel for the claimant/appellant are that the decree and order of the lower Tribunal in so far as it restricts the liability on the 2nd Respondent of Rs.6,000/- is contrary to law, weight of evidence and probabilities of the case, that the Tribunal below ought to have seen that the 2nd Respondent has not produced the policy covering the 3rd party property risk to say confined only to the extent of Rs.6,000/- and in the absence of which the reasons given by the Tribunal for restricting the liability of the 2nd respondent-insurer to Rs.6,000/- are not valid and prayed to allow the claim as prayed for.

3. Whereas, it is the contention of the appeal contesting 2nd respondent/insurer to the appeal in support of its contention before the Tribunal that the award of the Tribunal no way requires interference for this Court while sitting in appeal even by re-appreciation of the evidence and hence to dismiss the appeal. The 1st respondent-owner of the van remained *exparte* even before the Tribunal.

4. Heard. Perused the material on record. The parties are being referred to as they arrayed before the Tribunal for the sake of convenience.

5. Now the points that arise for consideration in the appeal are:

1. *Whether the impugned order of the Tribunal requires interference by*

this court to enhance the liability of the insurer out of the compensation awarded by the Tribunal and if so with what observations?

2. *To what result?*

POINT-1:

6. The facts not in dispute are that the accident was occurred due to the rash and negligent driving of the 1st respondent driver of the crime van of the main O.P. It is not even the case of the claimant-appellant claimed that the policy is a comprehensive policy covering the risk of third party property damage beyond Rs.6,000/-, muchless unlimited liability. The policy neither filed, nor called for production to exhibit, even to say anything therefrom. In the absence of which, when the policy only covered for 3rd party property risk limiting liability of the insurer to Rs.6,000/- from evidence on record as concluded by the Tribunal, there is nothing to interfere with the award passed by the Tribunal for this Court while sitting in the appeal. Accordingly the point No.1 is answered.

POINT No.2:

7. In the result, the appeal is dismissed. There shall be no order as to costs.

8. Miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 10-04-2015

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