

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

MACMA.No.629 of 2014

JUDGMENT:

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This appeal is filed by the Insurance Company against the order and decree dated 21-08-2013 passed in M.V.O.P.No.1361 of 2008 by the Chairman, Motor Accident Tribunal-cum-II Additional District Judge, Ranga Reddy District at L.B.Nagar, wherein the Tribunal granted an amount of Rs.3,35,230/- towards compensation in respect of damages caused to the cars and also compound wall.

The case of the appellant is that the respondent No.1 filed MVOP under Section 166 of Motor Vehicles Act (for short " the Act") claiming compensation of Rs.5,69,120/- towards compensation for loss of property caused by the 2nd respondent while driving the vehicle and for which the 2nd respondent is the insured and the 3rd respondent is the insurer.

It is the case of the 1st respondent that he is running a Car repairing shop and prior to filing petition, a lorry bearing No.AP 28 V 6839 driven by the 2nd respondent and owned by the 3rd respondent and insured by the appellant, dashed against the 1st respondent shed and compound wall and caused damage to the said property and also caused damage to four cars, which were kept in the shed for making repairs.

The appellants filed counter denying damage to the vehicle and property of the 1st respondent. It is also stated that the 2nd respondent allegedly drove the vehicle in intoxicated condition and the 3rd respondent allowed the 2nd respondent to drive the vehicle in intoxicated condition and therefore, he violated the terms and conditions of the Insurance policy. Therefore, the appellant is not liable to pay compensation. It is also pleaded that the 3rd respondent has to prove that he paid additional amount to cover the risk of third party property damaged pertaining to crime vehicle and therefore, the appellant has no liability. It is also stated that the appellant is not aware of the alleged loss and alleged surveyor's report and the claim is excessive and the Tribunal has no jurisdiction to entertain the same. It is further stated that the interest claimed by the petitioner is against the law. They also denied about registration of the crime by the police. It is also stated that there is no proof to say that the crime vehicle was having valid insurance coverage on

the date of the incident.

The Tribunal basing on the evidence of Pws.1 to 5 and Exs.A-1 to A-18 marked on behalf of the 1st respondent granted compensation of Rs.3,35,230/-, against which the present appeal is filed.

Learned counsel for the Insurance Company submits that the 1st respondent is neither the owner nor the injured person. As such, the 1st respondent has no locus standi to maintain the application under Section 166 of the Act. He also submits that the Tribunal granted Rs.3,35,230/- without any basis.

Section 166 of the Motor Vehicles Act reads as under:

(1) An application for compensation arising out of an accident of the nature specified in sub-section (1) of section 165 may be made—

(a) by the person who has sustained the injury; or

(b) by the owner of the property; or

(c) where death has resulted from the accident, by all or any of the legal representatives of the deceased; or

(d) by any agent duly authorized by the person injured or all or any of the legal representatives of the deceased, as the case may be:

A perusal of Section 166 of the Act shows that the owner of property or injured person and legal representatives of deceased are entitled to file application for compensation.

The 2nd para of the impugned order reads as under:

“The petitioner is the owner and Proprietor of M/s.Sai Hitech Motors represented by D.Kondal Reddy and running car repairing shed for Maruthi i.e. Maruthi, Indica, Accent, Qualis and prior to the filing of the petition one lorry bearing No.AP 28 V 6839 driven by the first respondent and owned by the second respondent and insured with third respondent and dashed the petitioner’s shed and compound wall and caused lot of damage to the shed property. Due to the impact of the lorry the wall of the shed was collapsed and thereby caused loss of four cars which were kept in the shed for making repairs. Therefore, he filed this application for claiming damages.”

Therefore, the impugned award goes to show that

the 1st respondent is not the owner of four cars or injured in the accident. As such, the application filed by the 1st respondent for compensation is not maintainable in its entirety. Application for compensation claimed towards loss of earnings and loss of compound wall is maintainable. A perusal of the award made by Tribunal goes to show there are no clear findings on what basis, the Tribunal came to conclusion that the 1st respondent is entitled for Rs.3,35,230/-. However, the amount granted towards loss of earnings i.e. Rs.23,140/- can be maintained.

In view of the same, the 1st respondent is entitled only for Rs.23,140/- with interest as awarded by the Tribunal and the award to the remaining extent is set aside.

Accordingly, the Appeal is allowed-in-part. As a sequel to the disposal of this appeal, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

01-12-2015

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