THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

M.A.C.M.A.No.1723 of 2005

JUDGMENT:

This appeal is preferred by the third respondent – Insurance Company, in M.V.O.P.No.420 of 1999 on the file of the Motor Accidents Claims Tribunal – cum – IV Additional District Judge, East Godavari, Kakinada.

The claim petition was filed originally by the injured claiming a compensation of Rs.1,00,000/- for the injuries sustained by him in a motor accident that occurred on 06.01.1999 in view of the rash and negligent driving of the driver of the lorry bearing No.WB 25/A/0197. At that time the claimant was aged about 59 years and he was working as a peon in Tandava Sugar Factory at Payakaraopeta and earning RS.3,000/- per month. The Tribunal came to the conclusion that the accident occurred due to rash and negligent driving of the vehicle and accordingly awarded an amount of Rs.21,000/- as compensation. Before the Tribunal, R.W.1 was examined on behalf of the Insurance Company, who stated that the particulars mentioned in Ex.A5 – M.V.I report, does not tally with the policy particulars in their office and hence, the vehicle was not covered by any insurance policy. The said plea was not accepted by the Tribunal by holding that when the claimants placed material within their purview, it was for the Insurance Company to rebut the same and that by mentioning the name of the office, which denied issuance of the policy, the Insurance Company should not have disowned the liability. Accordingly, it was held that the owner of the vehicle as well as the Insurance Company were jointly and severally liable to pay the compensation. During the pendency of the proceedings, the original claimant expired and the legal representatives came on record.

Now the learned Counsel for the appellant submits that the appeal was filed on the ground of absence of policy, but the said plea cannot be accepted in view of the observations made by the Tribunal while holding that the appellant was liable to pay the compensation as the burden of proof is on the Insurance Company. In view of the same, the only point that is raised in the present appeal by the Insurance Company cannot survive.

The appeal is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

04.11.2015

vs

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