

HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A.No.288 of 2010

JUDGMENT:

The wife and major unmarried daughter of the deceased- Ramulu, maintained O.P.No.1051 of 2004 for the death of Ramulu in the motor accident dated 27.06.2004, which taken place while undergoing treatment and the 1st respondent was one Geeta, no other than appellant herein, owner of the Motor Cycle bearing No.AP 20 TR J9405 and the claim petition 2nd respondent is the insurer of the said bike.

2. The tribunal after contest, passed award on 04.12.2009, fixing liability only on the owner and exonerating the insurer for Rs.1,35,000/- with interest at 7.5%p.a. and impugning the same, the 1st respondent-owner maintained the appeal, showing the claimants as respondents 1 and 2 and the insurer as respondent No.3.

3. Heard the learned counsel for the appellant-owner and also the learned counsel for respondents 1 and 2/claimants. Respondent No.3/insurer even served failed to attend. Perused the material on record.

4. Ex.X2 is the certified copy of the Learner's License of the rider of the bike of Girdar i.e., deposed by RW.2 and RW.1. The Apex Court in *National Insurance Company Limited Vs. Swaran Singh*¹, held that a Learner's License is a valid license. Once such is the case, the exoneration of the insurer by the

¹ (2004) 3 SCC 297=2004-ACJ-1

tribunal is unsustainable, as policy covered the risk and Learner's License is a valid license from the expression supra.

5. Accordingly, the appeal is allowed by modifying the award of the tribunal fixing liability against the 1st respondent-owner of the vehicle, to joint liability against the 2nd respondent-insurer of the vehicle of the claim petition also to indemnify. In other respects, the award of the tribunal holds good. No order as to costs.

6. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Date:26.10.2016
pab

Dr. B. SIVA SANKARA RAO, J

