

**THE HONOURABLE SRI JUSTICE U.DURGA PRASAD
RAO**

M.A.C.M.A.No.1291 of 2009

JUDGMENT:

This appeal is preferred by the claimant aggrieved by the Award dt. 30.04.2007 passed in MVOP No.1214 of 2001 on the file of Chairman, MACT-Cum-XI Addl. District Judge, Guntur at Tenali. The claimant filed the above said OP against respondent Nos. 1 and 2, who are owner and insurer of the crime vehicle i.e., City Bus bearing No. TAF 3339 (AP 7T 9333) claiming compensation of Rs.3,00,000/- for the injuries sustained in the accident. First respondent remained *ex parte* before the lower Tribunal and the second respondent filed counter and opposed the claim mainly on the ground that the crime vehicle was insured with it for the period from 9.11.1999 to 08.11.2000 and as the accident was occurred on 24.10.1999, there was no coverage of insurance policy by the date of accident and hence, the insurance company was not liable to pay compensation.

2) After full fledged trial, the Tribunal, on appreciation of facts and evidence, dismissed the claim against the second respondent holding that the policy was not in force by the date of accident and dismissed the claim also against first respondent for the reason that the claimant could not prove his injuries.

3) In the appeal, notice on first respondent/insured was not served, this Court by order dt. 29.02.2016 directed the appellant to take personal notice on respondent No.1 by registered post with acknowledgment due and file proof of service by 15.03.2016, but the Office endorsement shows that no proof of service is filed.

4. Heard Sri B. Parameswara Rao, learned counsel for appellant and Sri Ravishankar Jandhyala, learned counsel for second respondent/insurance company.

5. Learned counsel for the appellant argued that though the claim is dismissed against second respondent for non coverage of insurance policy by the date of accident, the trial Court ought to have awarded compensation against first respondent/owner because the claimant examined Pws. 2 and 3, who are the Doctors, and proved his injuries.

6. Learned counsel for the second respondent submitted that since there is no policy by the date of accident, the Tribunal rightly dismissed the appeal by exonerating the insurance company and because as per the admission of PW.2, the claimant has not received any external injuries rightly dismissed claim against R.1 also. He, thus, prayed to dismiss the appeal.

7. A perusal of the record shows that PW.2—Dr. K.S.Vara Prasad, deposed that PW.1 was admitted in the hospital on 25.10.1999 and no external injuries were found. PW.3, who is Assistant Professor of Orthopedic, GGH, Guntur, deposed that the claimant suffered 70% disability and that Ex.A.6—Disability Certificate was accordingly issued and he was the member of the Medical Board. The Tribunal observed that Ex.A.6 does not disclose the reason and cause for the physical disability of PW.1. Thus, not placed reliance on Ex.A.6, and dismissed the claim of the claimant. In the appeal, no notice was served on first respondent inspite of the direction dt. 29.02.2016 by this Court. Therefore, the appeal is liable to be dismissed as against Respondent No.1/insured. Due to non coverage of insurance

policy by the date of accident, the appeal is liable to be dismissed as against second respondent/insurance company also.

8) Accordingly, this Appeal is dismissed. No costs.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 03.06.2016
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