

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A. C.M.A. No.2191 OF 2016

JUDGMENT:

This Civil Miscellaneous Appeal is preferred by the insurance company viz., ICICI Lombard General Insurance Company Limited, Bank Towers, Bandra Kurla Complex, Mumbai, against the order and decree, dated 31.12.2011, in O.P. No.317 of 2008, passed by the learned Chairman, Motor Accidents Claims Tribunal - cum

III Additional District Judge, Karimnagar, on the ground that driver of the lorry bearing No.AP-9-X-2589 that involved in the accident was not holding valid driving licence to drive the lorry at the relevant time.

Since this Court dismissed the appeal in M.A. C.M.A. No.1200 of 2009, arising out of the order and decree, dated 29.09.2008, in O.P. No.266 of 2007 which relates to the very same accident, preferred by the insurance company confirming the order and decree passed by the Tribunal in all respects, the learned counsel on either side would submit that the claim in the instant appeal arises out of the same accident, but the only difference being that in O.P. No.266

of 2007, the Tribunal directed the insurer to initially pay the compensation and recover the same from the owner of the vehicle.

Learned counsel for the insurer (appellant), in the instant case, would submit that the Tribunal has fixed the liability jointly and severally, but no direction as ordered in O.P. No.266 of 2007 was given. When the claim petitions arise out of one and the same accident, certainly, the Tribunal cannot pass different orders.

Therefore, the order and decree made by the Tribunal is modified directing the insurer to initially pay the compensation to the claimant and later recover the same from the owner of the vehicle since a different view cannot be taken from the one taken by this Court in MA CMA No.1200 of 2009.

Accordingly, the Civil Miscellaneous Appeal is disposed of. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in the appeal stand disposed of.

A. SHANKAR NARAYANA, J

July 20, 2016.

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