HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1963 OF 2009

JUDGMENT:

The violation complained in the present appeal is that the driver of the lorry bearing No.ADG - 1233, which is involved in the accident, was not possessing valid subsisting driving licence as on the date of accident that took place on 11.02.2005 and to that effect even RW.2, who is Administrative Officer of Road Transport Authority, Karimnagar, was examined by the Insurance Company viz., National Insurance Company summoning him from the Road Transport Authority; that has been the challenge in the instant appeal, under Section 173 of the Motor Vehicles Act, 1988, which is preferred by the insurer against the order and decree dated 04.01.2007 passed by the learned Chairman, Motor Accidents Claims Tribunal - cum - I Additional District Judge, Karimnagar, in O.P. No.44 of 2006, whereby and whereudner, an amount of Rs.91,700/- was granted towards compensation for the injuries sustained by respondent No.1 - petitioner (claimant).

2. Heard Sri N. Mohana Krishna, learned counsel for the Insurance Company (appellant), Sri A. Manohar Reddy, learned counsel for the petitioner (respondent No.1), and Sri D. Bhaskar Reddy, learned counsel for respondent No.1, owner of the lorry that involved in the accident.

3. The other facts are not in dispute. Therefore, what is required to be examined in the instant appeal is whether the liability fastened on the Insurance Company can be sustained?

4. Nothing more is required to probe except the evidence of RW.2. RW.2 was working as Administrative Officer in Road Transport Authority, Karimnagar. His evidence shows that Ex.B-2, extract of the driving licence of the driver, was issued from their office and the driver Ubedur Rahman was possessing a valid subsisting driving licence up to 05-01-2004 and it was renewed on 24.02.2005 and that the driver was having driving licence but he was not having effective driving licence as on 11.02.2005. RW.2 says that they collected fine amount at the time of renewal of licence and between 06.01.2004 and 23.02.2005, the driver was not holding any effective driving licence to drive transport vehicle and, therefore, he could not have driven transport vehicle during that period. When he was cross-examined, he says that 30 days grace period will be available for renewal of the licence from the date of expiry. To yet another question, he answered that the individual was having licence to drive non-transport vehicle till 29.06.2015. Thus, though, licence for driving a transport vehicle was not subsisting at the relevant time and renewed subsequently, still, the fact that the driver was possessing non-transport driving licence till 29.06.2015 cannot be lost sight off. This witness (RW.2), deposed before the tribunal on 13.11.2006. The law is now well settled that in case of driver holding non-

transport driving licence and drives transport vehicle without transport licence to drive the transport vehicle, still, the tribunal and the Courts can direct the Insurance Company to pay the amount initially and recover the same from the owner of the vehicle. The law is thus, declared by the Hon'ble Supreme Court in **S. Iyyapan v. United India Insurance Company Limited**[1]**.** Therefore, any amount of argument that driving licence to drive the transport vehicle renewed subsequent to the date of accident would not be of any avail to the Insurance Company to avoid its initial liability of paying the compensation and to recover the same.

5. Hence, the order and decree under challenge is modified directing the Insurance Company to pay the compensation amount initially to the petitioner and recover the same from the owner of the lorry that involved in the accident.

6. Accordingly, the Civil Miscellaneous Appeal is allowed in part as indicated above. There shall be no order as to costs.

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

A. SHANKAR NARAYANA, J

December 29, 2016.
PV

[1](2013) 7 SCC 62