

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1652 OF 2009

JUDGMENT:

The petitioners in O.P. No.428 of 2003 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, Chittoor (for short, 'the Tribunal'), challenging the order and decree dated 02.02.2007, preferred the instant appeal under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act') mainly on the ground that the Tribunal went wrong in exonerating the insurer, though, no evidence was let in either by obtaining the endorsement from the road transport authority or examining its official, placing reliance on the decision of this Court in **Oriental Insurance Company Limited, Visakhapatnam v. Cheemakurthi Venkata Kanaka Raju and others¹**.

2. By the aforesaid order, the Tribunal dismissed the claim against the insurer while granting compensation of Rs.98,000/- against the owner of the accident vehicle, as against the claim of Rs.5,00,000/- laid under Section 166 of the Act for the death of one Chaganti Ramakrishna in a road accident.

3. Appellant Nos.1 to 4 herein, who are the wife, parents and mother-in-law of the said Chaganti Ramakrishna, are petitioner Nos.1 to 4, while respondent Nos.1 and 2 herein, who are the owner and insurer of the accident vehicle, i.e., jeep bearing registration

¹ 2011(3) ALD 531

No.TNY 6105, are respondent Nos.1 and 2, respectively, in the original petition.

4. For the sake of convenience, the parties hereinafter referred to as they were arrayed before the Tribunal in the original petition.

5. Similar fact-situation as occurring in the present case occurs in the aforesaid decision. The Insurance Company has neither examined the official of the road transport authority nor there is endorsement in this case, though, the reported ruling, on which, the learned counsel for the appellants-petitioners relied on, would at least show that the endorsement made by the road transport authority was available and marked.

6. Heard Sri Ravulapati Srinivasa Rao, learned counsel for the appellants-petitioners, and Sri P.Bhanu Prakash, learned Standing Counsel for respondent No.2-Insurance Company. Though, service was completed on respondent No.1-owner, none appears for him.

7. In view of the ruling relied on by the learned counsel for the appellants-petitioners, it is a case, where the matter has to be remitted to the Tribunal for fresh disposal after affording opportunity of leading further evidence to both sides.

8. Accordingly, the instant appeal is allowed setting aside the order and decree dated 02.02.2007 passed by the Tribunal, by remitting the matter to the Tribunal with a direction to the Tribunal to

afford an opportunity of leading further evidence to both sides and dispose of the matter within a period of six (6) months from the date of receipt of a copy of this judgment. There shall be no order as to costs.

9. As a sequel thereto, miscellaneous applications, if any pending in the instant appeal, stand closed.

A. SHANKAR NARAYANA, J

17th September, 2016

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