

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.987 OF 2009

JUDGMENT:

The present appeal is preferred by respondent Nos.3 and 4 concerning one and the same Insurance Company i.e., New India Assurance Company Ltd., in M.V.O.P.No.1168 of 2007 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-VI Additional District Judge, (III-F.T.C), Warangal at Mahabubabad (for short, 'the Tribunal'), assailing the award and decree dated 10.06.2008, passed in the said O.P, on the main ground that the driver of the auto bearing registration No. AP 37 W 5713 was not possessing transport driving license, and it amounts to fundamental violation of the terms and conditions of the policy, and as such, the Tribunal was not justified in mulcting liability on them to pay the compensation.

2. By the aforesaid award, the Tribunal has awarded compensation of Rs.69,317 with interest at 7.5% per annum, fixing joint and several liability on respondent Nos.1 to 4 for the injuries sustained by the respondent No.1/petitioner in a road accident.

3. Since the fact-situation is not disputed by learned counsel for the appellants, it is not necessary to refer to the facts.

4. Learned counsel for the appellants now

concedes that non- possessing of transport driving license by the driver of the auto cannot be treated as fundamental violation of the terms and conditions of the policy, for the reason that he was having non-transport driving license and, therefore, the appellants do not have a case on merits, in view of the latest pronouncement of the Hon'ble Supreme Court in **S.Iyyapan v. M/s.United India Insurance Company Limited & another**^[1]. In that view of the matter, the appeal is devoid of merit.

5. The instant appeal is, therefore, dismissed, confirming the award and decree passed by the Tribunal in all respects. There shall be no order as to costs.

6. Miscellaneous applications, if any, pending in the instant appeal, shall stand closed. There shall be no order as to costs.

A. SHANKAR NARAYANA, J

27th July, 2016

v v

^[1] 2013 ACJ 1944