

HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A.No.4742 of 2008

JUDGMENT:

The appellant is the 2nd respondent-insurer including owner of jeep bearing No.AP 03E 5305 maintained the appeal including the award of the tribunal in M.V.O.P.No.72 of 2006, maintained under Section 166 of the Motor Vehicles Act for a compensation of Rs.6,00,000/- by four claimants no other than wife, major son, major unmarried daughter, mother of the deceased namely D.Venkatarami Reddy, aged about 40 years as per Ex.A13-Post Mortem Report and from the 1st respondent owner remained ex parte on contest by the insurer the tribunal ultimately held that the accident was the result of rash and negligent driving of the driver of the 1st respondent, which dashed from behind the deceased while proceeding by foot on road and the said quantum besides the liability impugned in the appeal saying the bike is a gear vehicle and the driver possessed Light Motor Vehicle-non-transport and the license-Ex.B1 no way enables to ride a gear. Thereby there is no valid license and one of the violations of the permit and the insurer can be exonerated otherwise only to the extent of pay and recovery from the policy otherwise risk covers the third party. It is also the contentions that the multiplier adopted is incorrect and to reduce the compensation proportionately. Hence, to set aside the award by passing appropriate modified orders.

2. Whereas, it is the submission of the learned counsel for the claimants that award of the tribunal holds good and for this Court while sitting in the appeal, there is nothing to interfere and prayed to dismiss the appeal.

3. Heard and perused the material on record.

4. Light Motor Vehicle-non-transport itself is for riding own vehicle and not for hire and it applies even to the gear otherwise thereby specific endorsement is not required particularly two wheelers and the tribunal is right in fixing joint liability to indemnify by the insured by the insurer and even on the quantum multiplier shown from the age of the deceased as '15' as per *Sarla Verma v. Delhi Transport Corporation*¹. The other sums to be awarded including conventional sums are utterly low thereby there is nothing to interfere even on the quantum.

5. Accordingly and in the result, the appeal is dismissed. There is no order as to costs.

6. Miscellaneous petitions, if any pending, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 12-09-2016
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¹ 2009 ACJ 1298