

SMT JUSTICE T. RAJANI

MACMA.Nos.2734, 2735, 2736 and 2737 of 2006

COMMON JUDGMENT:

These appeals are preferred by the appellant-insurance company, who is the second respondent before the Court below, assailing the similar judgment of the VIII Additional District and Sessions Judge, Vijayawada in OP.Nos.830, 828, 827 and 829 of 2002 dated 20.12.2005, all arising out of the same accident.

2. The grounds on which these appeals are preferred are that the Court below ought to have seen that since it was held that owner of the lorry violated the conditions of policy, Ex.B1, the claimants are entitled to recover the amount only from the insured and not the insurance company. The Court below erred in fixing the liability on the insurance company and the multiplier adopted is also not appropriate with respect to the age of the deceased.

3. Heard both the counsel.

4. At the hearing, counsel for the appellant does not press on the other grounds and he restricted his argument only to the ground that the policy does not cover the risk of persons, who were engaged for unloading by a third party. He draws the attention of this Court to the averments made in the claim petitions wherein it was averred that the deceased along with others was engaged as coolie, for loading and unloading rice bags on the crime vehicle and that on the date of the accident at about 9 PM one Madhava Rao, the owner of the rice bags came to the house of one P. Nageswara Rao and asked him to arrange

for coolies to load and unload 50 bags of rice from his house and that the crime vehicle belonging to the first respondent was kept on the road in front of the house of Madhava Rao for the purpose of loading 50 bags of rice. The counsel, on the basis of the said averments, contends that the deceased were not engaged as labourers by the owner of the lorry and that they were engaged by a third party, hence, they are not covered by the terms of Ex.B1 policy.

5. A perusal of Ex.B1 policy does not bring out any distinction between the labourers that are engaged by the owner of the vehicle and the labourers that are engaged by a third party, who, in turn, hires the vehicle for carrying the load. They nevertheless remain third parties to the crime vehicle. Hence, in the light of the said fact, it becomes immaterial whether they were engaged by the owner of the lorry or by any other person. The travel of the deceased is authorized by virtue of the owner agreeing to carry the load and to carry the deceased along with others for loading and unloading the load. Hence, the contention of the appellant counsel does not find favour with this Court.

6. The Court below ordered that the appellant should pay and recover the amount from the owner because of the driver of the crime vehicle not possessing valid driving license. The same is not put to question by the appellant in this appeal. Hence, the award of the Court below, as regards the liability, is sustained.

With the above observations, the appeals are disposed of.
As a sequel, the miscellaneous applications, if any, shall stand closed.
There shall be no order as to costs.

July 14, 2017
DSK

T. RAJANI, J

