

SMT JUSTICE T. RAJANI

M.A.C.M.A. No.753 of 2008

JUDGMENT:

This appeal is preferred by the appellant—New India Assurance Company Limited, who is 2nd respondent before the Court below, assailing the judgment of III Additional District Judge, Kadapa at Rajampet, in M.V.O.P.No.291 of 2006 dated 30.11.2007 on the grounds that the Court below took the income of the deceased at Rs.2000/- per month, which is excessive; it has not properly taken the age of the deceased and no additional premium was paid as per the policy provisions when the bus is hired with APSRTC.

2. Heard learned Standing counsel for the appellant. The learned counsel for respondents did not appear.

3. A perusal of the judgment shows that the deceased, who was doing milk business died in the motor accident. The Court below took the monthly income of the deceased at Rs.2,000/- per month and the deceased is a woman. The law settled by now is that the women would contribute services to the family, which can be valued at Rs.3,000/- per month, in the least. Hence, there need not be any interference with regard to the income taken by the Court below.

4. However, learned Standing Counsel for the appellant submits that the age of the deceased which was taken as 30 years is not correct in the light of the fact that in the complaint the age of the deceased was mentioned as 40 years. But the said contention cannot

be sustained, as, in the post mortem report the age was shown as 30 years, and it is a more valid document with regard to the age of the deceased. Hence, there need not be any interference in that regard also.

5. The learned Standing Counsel for the appellant contends that no additional premium was paid though being the bus was hired with APSRTC. It can be seen that the policy covered the liability of third parties and inspite of the fact that the bus is hired with APSRTC, the liability of insurer would continue under the terms of policy.

6. The learned Standing Counsel for the appellant further contended that the bus was overloaded. It is absolutely without any basis and there is no proof brought forth to prove the said fact before the Court below. Hence, the said submission also cannot be sustained.

7. In the result, the appeal stands dismissed. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

T. RAJANI, J

Date:20.10.2017
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