

HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A.No.721 of 2010

JUDGMENT:

The 2nd respondent-insurer among two respondents including owner of the auto bearing No.AP 23T 9912, maintained the appeal impugning the award dated 23.10.2008 in O.P.No.618 of 2006 maintained by the injured claimant for a compensation of Rs.3,00,000/- under Section 166 of the Motor Vehicles Act (for short 'the Act'), for the injuries sustained in the auto accident on 09.06.2005 stating that while he was travelling in the auto, the auto turned turtle due to the rash and negligent driving of the driver of the said auto of the 1st respondent insured with the 2nd respondent and from the evidence on record and contest by the insurer also by saying through RW.1 its employee with reference to Ex.B1-policy otherwise covered the risk in saying the driver having no valid driving license to drive light motor vehicle-transport auto and despite notice issued under Ex.B2 to the owner of the vehicle-1st respondent to produce the license particulars failed to comply thereby, the tribunal ought to have exonerated the insurer from liability for the driver having no valid driving license instead of fixing joint liability.

2. The learned counsel for the appellant reiterated the same.
3. Whereas, it is the submission of the learned counsel for the claimant that the award of the tribunal holds good and there is

nothing to interfere with the award of the tribunal. Perused the material on record.

4. But for the notice stated issued, there is no even acknowledgement. The charge sheet no way speaks of driver not possessing valid driving license by charging him for the offence under the Motor Vehicles Act even to say anything referring to it and Motor Vehicle Inspector's report is also not filed. Even though there is specific column No.17 therein meant for furnishing the license particulars to know whether examined or not and particulars noticed or not. Even no certificate obtained in the name of the driver of the license particulars from the local R.T.O concerned without which when there is no basis to the contention by the insurer and the trial Court when rightly came to the conclusion for this Court while sitting in appeal, there is nothing to interfere including on the quantum.

5. Accordingly, the appeal is dismissed. No order as to costs.

6. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

Date:04.01.2017
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