

SMT JUSTICE T. RAJANI

MACMA.No.166 of 2006

JUDGMENT:

This appeal is preferred by the appellant-insurance company, who is respondent No.2 before the Court below, assailing the judgment of the Motor Accidents Claims Tribunal, Warangal in OP.No.763 of 2001 dated 15.04.2005 on the grounds that the tribunal below failed to see that the vehicle involved in the accident is a private vehicles, meant for personal use of the insured for his personal and business purpose and that it should not be hired, but, in the instant case, the deceased and others engaged the vehicle, hence, there is violation of the conditions of the policy; the Court below failed to see that the appellant-insurance company, by examining R.W.2 and marking Exs.B1 and B2, had discharged its legal burden by proving that the vehicle is a private vehicle meant for personal use and that it was used contrary to the policy conditions; the Court below erred in coming to the conclusion that the word 'engaged' would imply and mean that it was used for the purpose of travel; the Court below failed to see that Ex.B2 case diary pertaining to Crime No.61 of 2001 reveals that the vehicle was engaged by the deceased and others, which means that the vehicle was hired for the purpose of visiting Nagarjuna Sagar.

2. Heard counsel for the appellant. Counsel for the respondents did not appear.

3. Counsel for the appellant contends that as per the terms of the policy, the vehicle has to be used only for the social, domestic and

pleasure purpose of the insured and for own business of the insured and it does not cover the use on hire or reward.

4. It is true that, apparently, Ex.B2, which is the case diary, shows that the deceased along with others engaged the Tata Sumo on 01.05.2001 for excursion from Kajipet to Nagarjuna Sagar. As against the contents of Ex.B2, the evidence of P.W.1 is that on the date of the accident i.e. 01.05.2001 his friends and relatives including the deceased Lakka Rajan Babu were proceeding to Nagarjuna Sagar for sight seeing; hence, a harmonious reading of Ex.B2 and the evidence of P.W.1 is required. It is nowhere stated that the vehicle was hired by the deceased, there is no explanation given by any witness with regard to what the word 'engaged' mentioned in Ex.B2 means. Hence, in a beneficial legislation, interpretation of a word, of which the meaning is not explained by any witness, cannot be done in the above manner resulting in the defeat of the object of the legislation. The evidence of P.W.1 can be taken as the criteria to understand the nature of the usage of the vehicle. He testifies very categorically that the deceased was his relative. The cross-examination of P.W.1, made by the appellant herein, does not, in any manner, discredit that part of his evidence.

5. The word 'engaged' can also mean 'took'. Hence, unless there is cogent and clear evidence that the vehicle was hired, no import to the meaning of the word engaged can be made, as to the mean that it is hired. The deceased being a relative, travelling in the vehicle along with other relatives of R.W.1, the use of the vehicle falls within the domestic or pleasure purpose. Even if R.W.1 was not travelling in the

vehicle, it does not disqualify the travel from being for domestic purpose, as a relative can be considered as his extended family. Hence, this Court finds absolutely no reason to interfere with the judgment of the Court below.

The civil miscellaneous appeal is dismissed. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

July 27, 2017
DSK

T. RAJANI, J

