HON'BLE SRI JUSTICE D.V.S.S. SOMAYAJULU

<u>CMA No. 37 of 2007</u>

<u>ORDER</u>:

This is an appeal filed against the order dated 27.04.2006 in WC.No.133 of 2005 by the Commissioner of Workmen's Compensation and Assistant Commissioner of Labour, Hyderabad.

The facts, in a brief, are that the applicants are the parents of the deceased-driver, who died in an accident while driving on tractor bearing No.AP 7G 2971 belonging to opposite party No.1. Opposite party No.2 is the insurance company.

The first opposite party filed his counter admitting all the averments, but stated that the second opposite party should indemnify him since he insured the tractor with it. Second opposite party filed his counter denying the averments and the claim. On behalf of the applicants, first applicant was examined as AW.1 and Exs.A.1 to A.5 were marked. For the opposite parties, one witness-RW.1 was examined. After considering the documentary and oral evidence, the Commissioner for Workmen's Compensation passed the impugned order, wherein he directed payment of compensation of Rs.3,50,863/- by both the opposite parties 1 and 2 jointly and severally. Aggrieved by the said order, the present appeal is filed.

Heard Sri G.Vasantha Rayudu, learned counsel for the appellant and Sri Kotagiri Sreedhar, learned counsel for the respondents.

The essential ground urged is that as per the conditions in the policy, only one employee is covered and because another employee/labourer who was involved in this accident has filed another workmen's compensation case, the present application is not maintainable and consequently the order passed by the lower Court is not tenable legally or factually.

The counsel for the respondents, on the other hand, supported the impugned order and argued that in view of the judgements reported in ***P.Venkata Ramana v. Chintaguntla Kumar and others***[1] and ***New India Assurance Company Ltd., Kadapa v. Pujala Chenchu Nagaiah and others***[2] and as per the provisions of Section 147 of the Motor Vehicles Act, 1988 (for short 'the Act'), there is no need to take a separate policy and that the Driver of the vehicle is covered by the said policy. His argument is that the fact that another person filed another case, cannot be used to deprive his client of the compensation that he is entitled to.

In respect to the other aspects namely the age, the rationale for adopting the minimum wages etc., there is no serious dispute between the counsel for the appellant and the respondents. Therefore, the short and simple question that arises for consideration in this appeal is, whether the

[1] 2010 (2) ALD 281
[2] 2011 (1) ALD 596

insurance policy covers the death of the present employee/driver.

The learned counsel argued that Section 147 of the Act occurs under the head third party risk and therefore, he argued that as the Driver is not a third party, the policy does not cover the same. In reply thereto, the learned counsel for the respondents argued that Driver is also covered under the policy and that Section 147 of the Act, which deals with the requirements of a valid policy has been interpreted by Courts. It is the submission of the learned counsel that a Driver of a vehicle is squarely covered by the proviso of Section 147 of the Act along with the conductor of a public transport vehicle and other employees. Proviso to Section 147 of the Act clearly states that for a person engaged in driving of a vehicle, separate policy is not required. The proviso to the said Section has been interpreted clearly in two judgements cited supra, wherein learned single Judge of this Court clearly clarified that the proviso to sub-section (1) of section 147 of the Act is a continuation of the list of persons that are required to be covered under the policy. This includes the Driver of the vehicle. Therefore, once the insurance company states that there is a valid policy, it will cover third parties, passengers in a public service vehicle and also the employees who were engaged in the vehicle.

The learned single Judge observed that the option of taking an insurance policy to cover the Driver and conductor and the persons in a goods carrier is no longer optional. It is now mandatory that the policy will have to cover the risk to these persons.

Therefore, this Court holds that the order passed in this case is legal and valid and that no interference is called for. This Court concurs with the interpretation placed by the learned single Judge and the two judgements cited supra and holds that the order of the lower Court is valid and does not suffer from any infirmities and the same is, therefore, confirmed.

In the result, the appeal is dismissed. No order as to costs.

Consequently, miscellaneous petitions, if any, pending in this appeal shall stand closed.

D.V.S.S. SOMAYAJULU, J

Date: 12.12.2017
KLP