THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CIVIL MISCELLANEOUS APPEAL NO.2185 OF 2002

JUDGMENT:

This appeal is preferred against the order, dated 17-08-2001 in O.P.No.87 of 2000 on the file of the Chairman, Motor Accident Claims Tribunal-cum-Additional District Judge, Hindupur (for short 'the Tribunal'), whereunder and whereby the Tribunal awarded an amount of Rs.81,050/- to the appellants/claimants towards compensation in view of death of one K.Narayanamma, who is the wife of the 1st appellant and mother of appellants 2 and 3.

2. The facts, which are not in controversy are that on 30-05-1996, the deceased along with Kummara Narayanamma and Kuruba Narayanamma, boarded the Van bearing Registration No.A.P.02T 6323 to go to Dharmavaram by paying fare. When the vehicle reached Guntur at about 1.00 P.M., the driver of the vehicle by name P.Ravi Kumar, drove the vehicle in a rash and negligent manner and lost control over it, as a result of which, the vehicle turned turtle, resulting in the deaths of K.Narayanamma and Kummara Narayanamma and injuries to Kuruba Ramaiah.

3. The Tribunal clubbed the three O.Ps and disposed of the same by way of common order.

4. The Tribunal, however, fastened the liability only on the owner of the vehicle in question namely 1st respondent and no liability was fastened on the Insurance Company on the ground that there was a breach of terms of policy. The Tribunal took a view that the vehicle was goods carriage and was insured as such, as seen from the policy, Ex.B1 and the passengers were unauthorized passengers having paid fare and hence, the Insurance Company cannot be made liable to pay the compensation. Aggrieved by the said order, the appellants/claimants preferred the present appeal.

5. It is not known as to whether the award in two other O.Ps were challenged by way of any appeal.

6. Learned counsel appearing for the appellants submits that the insurance policy shows that the vehicle was a goods carriage, that merely because the policy was issued for goods carriage, it cannot be said that the vehicle was not covered with the policy and therefore, the passengers were unauthorized passengers. He further submits that the driver of the vehicle was not expected to take fare from the passengers, that except producing the policy, no other document was produced to prove that the vehicle was goods carriage vehicle or any ordinary vehicle, which will be determined from the register of extract of the vehicle, which was neither produced by the owner nor the Insurance Company.

7. As seen from the policy, it is clear that there was a breach of terms of policy and therefore, the Tribunal after considering both oral and documentary evidence available on record, rightly fastened the liability on the owner and absolved the liability on the Insurance Company. I see no reasons to interfere with the said order of the Tribunal.

8. Accordingly, the Civil Miscellaneous Appeal is dismissed. No order as to costs. Miscellaneous petitions, if any pending, in this appeal shall stand closed.

M.S.K.JAISWAL, J

DATED: 03-02-2017
Hsd