THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.287 OF 2014

JUDGMENT:

ICICI Lombard General Insurance Company Limited, 2nd respondent in M.A.T.O.P. No.833 of 2008, on the ground that the driver of the crime vehicle did not possess valid driving licence at the time of the accident, sought exoneration by setting aside the liability fastened by the Chairman, Motor Accident Claims Tribunal-III Additional District Judge (FTC), Khammam (for short, 'the Tribunal'), by his order dated 15.09.2011, granting compensation of Rs.1,80,440/- with interest at 7.5% p.a. from the date of petition till realisation for the injuries sustained by the 1st respondent/petitioner in O.P., in a road accident.

2. The factual aspect is not in dispute, but, however, regarding the finding that the auto driver did not possess valid driving licence, it requires adjudication in the present Appeal.

3. Before the Tribunal, P.Ws.1 and 2 were examined and Exs.A1 to A5 were marked on behalf of the petitioner-claimant. On behalf of the 2nd respondent-Insurance Company, its Legal Trainee was examined as R.W.1 and Ex.B1-certified copy of Insurance Policy is marked through him.

4. Heard Sri Mr. Ramachandra Reddi Gadi, learned counsel for the appellant and Sri Karri Murali Krishna, learned

counsel for the 1st respondent. Though, respondent No.2 was served, none appears.

5. For the sake of convenience, the parties hereinafter will be referred to as they were arrayed before the Tribunal.

6. When R.W.1 was confronted by the learned counsel for the petitioner-claimant, R.W.1 answered in his cross-examination that the factum of non-mentioning the offence and admitted that there is no mention either in F.I.R. or Charge-sheet marked as Exs.A1 and A2 respectively that the crime vehicle driver did not possess valid licence as on the date of accident and Ex.B1 policy was in force, but, however, he denied the suggestion that he was giving false evidence to avoid liability of respondent No.2 (owner) and he has also answered that the Insurer did not take any steps to examine the owner of the vehicle in order to prove that the driver of the vehicle was not possessing valid driving licence at the relevant time.

7. These findings recorded by the Tribunal in paragraph-19 cannot be faulted for the reason that there is every reason to record such findings based on appreciation of evidence on record.

8. The learned Standing Counsel, of course, did not dispute the 2nd respondent-Insurer not making any efforts to get the 1st respondent-owner examined by taking out summons compelling to attend.

9. Therefore, there is no merit in the present Appeal and, accordingly, the same is dismissed. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the Civil Miscellaneous Appeal shall stand closed.

A. SHANKAR NARAYANA

Dt. 26.10.2017
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