HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

MACMA.Nos.1989 and 1991 of 2011

COMMON JUDGMENT:

These appeals are arising out of the order dated 12.10.2009 in M.O.P.No.972 of 2007 and M.O.P.No.973 of 2007, respectively, on the file of the II Additional District Judge-cum-Motor Accidents Claims Tribunal (FTC), Parvatipuram (for short, 'the Tribunal'). As these appeals arise from common accident, they are taken up together for disposal by way of this common judgment.

2. Brief facts of the case are that on 03.05.2006, the deceased went out to answer calls of nature, at about 21.45 hrs, then a tractor bearing No.AP-16Y-0430 driven by its driver in a rash and negligent manner dashed the deceased, and fell into the borewell. The deceased also fell into the borewell and died instantaneously. Alleging that the accident occurred due to the rash and negligent driving by the driver of the tractor, the claimants filed the aforesaid Original Petitions against respondents 1 and 2, the owner and the insurer of the crime tractor, claiming compensation of Rs.4,00,000/- on account of the death of the deceased.

3. In fact, the Tribunal awarded compensation of Rs.3,18,500/- to the claimants in M.O.P.No.972 of 2007, and Rs.2,10,500/- to the claimants in M.O.P.No.973 of 2007. Aggrieved by the same, ICICI Lombard General Insurance Company Limited, filed these two appeals.

4. Heard the arguments of Sri Kota Subba Rao, learned counsel for the appellant-insurance company, and Sri Krishna Rao, learned counsel for respondents-claimants.

5. The point arise for consideration in these appeals is *whether there is violation of terms and conditions of insurance policy with regard to the driver of the crime vehicle not possessing valid driving licence by the date of accident?*

6. Learned counsel for the appellant contended that the drive of the crime vehicle was not possessing valid and effective driving licence by the date of accident. It is violation of terms and conditions of insurance policy. Therefore, the insurance company is not liable to pay any compensation. It is further contended that as the deceased did not travel in the tractor, there was no coverage of insurance.

7. Learned counsel for the respondents submits that the deceased were 25 years old and 52 years old by the date of accident and they were working as labourers.

8. It is appropriate to refer to the observation of the Tribunal at paragraph No.23 of the impugned order.

> "23. As seen from the Ext.B.1 insurance policy, the policy of the offending vehicle was in force i.e. from 1-2-2006 to 31.1.2007 as on the date of alleged accident which took place on 3-5-2006 and the policy was in force at the time of accident. Since it was held under issue No.1 that the 1st respondent who is the owner of the offending vehicle and employer of the driver of the offending vehicle vicariously liable for the wrong committed by the driver of the offending vehicle and the 2nd respondent is the insurance of the offending vehicle and since the policy was in force by the date of alleged accident, both the respondents are jointly and severally liable to pay the compensation awarded to the petitioner. Accordingly, this issue is answered in favour of the petitioner and against the Respondents."

9. It is obvious that the Tribunal has given a clear finding with regard to the insurance policy that it was in force as on the date of accident. The said finding does not require any interference. Therefore, there is no

violation of terms and conditions of policy. As such, the claimants are entitled for the award passed by the Tribunal.

10. In view of the above, I do not find any merits in these appeals, and the appeals are liable to be dismissed.

11. In the result, both the appeals are dismissed. No costs. Miscellaneous petitions, if any pending, shall stand closed.

GUDISEVA SHYAM PRASAD, J

02nd March, 2017
KSM