HON'BLE MRS. JUSTICE ANIS

C.M.A.NOS.1546 & 1577 OF 2004

COMMON JUDGMENT:

Both appeals are filed by the appellant/United India Insurance Company Limited-3rd respondent in the O.Ps (for short "Insurance Company") under Section 173 of the Motor Vehicles Act,1988 (for short "M.V.Act") aggrieved by the common award passed by the Chairman, Motor Accident Claims Tribunal-cum-District Judge, Krishna at Machilipatnam in O.P. Nos.221 and 290 of 1999, awarding compensation of Rs.15,000/- and Rs.1,68,000/- in O.P.No.290 and 221 of 1999 respectively.

2. The above O.Ps are filed under Sections 140 and 166 of the Act read with Rule 455 of Andhra Pradesh Motor Vehicles Rules by the petitioners/claimants claiming compensation for death of the deceased viz., Ravulapati Rami Reddy and injuries sustained by Mandal Nagendra Prasad Reddy in a motor accident. Since both claims arise out of one and the same accident and as the respondents in both the petitions are also common, the Tribunal below passed the common order, which are impugned in these appeals by the Insurance Company.

3. The brief averments made in the petitions are that on 03-10-1998 at about 22.45 hours one Manda Nagendra Prasad Reddy, an Advocate (petitioner in O.P.No.290 of 1999) was riding his scooter bearing No.AP 16 L 1474 along with deceased-Ravulapati Rami Reddy, being the pillion rider, in order to go to Dokikparru village through Angaluru to Gudivada side, and in the meanwhile, an Ambassador Car bearing No.AP 16 U 835 came in opposite direction being driven by 1st respondent in a rash and negligent manner in high speed and without blowing horn dashed the scooter, as a result of which, rider of the scooter sustained injuries and pillion rider died instantaneously due to head injuries. On seeing the accident, the passers-by took both of them to a Government Area Hospital, Gudivada in a private car for treatment. The Duty Medical Officer declared the deceased "*brought dead* "and rider of the scooter, who sustained injuries, was admitted in the said hospital for treatment. Later, police registered a case in Cr.No.25 of 1998 under Sections 304-A and 338 IPC. After investigation police filed charge sheet alleging that the accident occurred due to rash and negligent driving on the part of the driver of the Car. 2nd respondent is the owner of the Car and 3rd respondent is insurer of the Car.

4. The respondents filed counter and denied their liability and prayed the court to dismiss the O.Ps.

5. Basing on the pleadings, the Tribunal framed three issues. To substantiate the claim, petitioners examined Pws.1 to 3 and got marked Exs.A-1 to A-6. On behalf of the respondents, no oral evidence is adduced but Exs.B-1 to B-6 marked.

6. After considering oral and documentary evidence, the Tribunal allowed both petitions awarding compensation of Rs.15,000/- in favour of petitioner in O.P.No.290 of 1999 along with interest @ 9% per annum from the date of petition till the date of realisation; and Rs.1,68,000/- in favour of the petitioners in O.P.No.221 of 1990 along with interest @ 9% per annum from the date of petition till the date of realisation.

7. Aggrieved by the common award passed by the Tribunal, the Insurance Company-3rd respondent preferred these two appeals.

8. The learned counsel for the appellant mainly argued that as on the date accident, the policy-Ex.B-2 is not valid inasmuch as it is valid from 31-05-1997 to 29-05-1998, whereas the accident took place on 03-10-1998 much long after the expiry of policy. Therefore, the appellant is not liable to pay any compensation to the claimants/respondents in the appeal.

9. On the other hand, the learned counsel for the respondents/claimants argued that Tribunal after considering oral and documentary evidence held that respondents 1 to 3 in the O.Ps are jointly and severally liable for payment of compensation to the claimants/petitioners.

10. Having regard to the submissions made by both learned counsel, the only point that arise for consideration is:-

Whether the appellant/Insurance Company has made out any case to set aside the common order dated 31-10-2003 in O.P.Nos.221 and 290 of 1999?

11. **POINT**:-

The only small and single point to be determined in these appeals is whether on the date of accident, the crime vehicle, which was involved in the accident, was having valid insurance or not. A perusal of Ex.B-2 shows that policy was valid from 17-04-1997 to midnight of 16-04-1998. Admittedly, the accident was occurred on 03-10-1998 i.e., much long after the policy got expired. Therefore, the appellant/ United India Insurance Company is not liable to pay any compensation to the claimants. On this aspect, the counsel for the respondents did not dispute about the date of accident and validity of policy. Considering the admitted fact of validity of policy, the common order passed by the Tribunal fixing joint and several liability on the part of the appellant/Insurance Company is liable to be set aside.

Accordingly, these two appeals are partly allowed while absolving the liability to pay the compensation on the part of the appellant/Insurance Company. The claimants in the O.Ps are at liberty to get the compensation from respondent Nos.1 and 2 in the O.Ps. No order as to costs.

Miscellaneous Petitions, if any, pending in these appeals shall stand closed.

ANIS, J

25.07.2017
TSNR