

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.289 OF 2014

JUDGMENT:

Heard Mrs. A. Jayanthi, learned Standing Counsel for the appellant-Insurance Company and Sri V. Brahmaiah Chowdary, learned counsel for the 2nd respondent-owner of the vehicle.

The 1st respondent/petitioner-claimant though, served with notice, has not entered appearance.

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

3. The learned Standing Counsel for the appellant would submit that the auto driver, at the relevant time, was not possessing valid driving licence. Having noted the same, the Tribunal directed the Insurance Company to deposit, initially, and later recover the same from the owner of the vehicle.

4. The learned counsel for the 2nd respondent-owner submits that in view of the recent rulings of the Hon'ble Supreme Court the order passed by the Tribunal is proper and needs no interference.

5. The Tribunal awarded a sum of Rs.1,78,000/- for the death of the husband of the 1st petitioner with interest at 7.5% per annum, and relying on the ruling in **National Insurance Co. Limited**

v. Swaran Singh¹ directed the Insurer, initially, to deposit and later recover the same from the owner.

6. The present controversy is no more *res integra*. The decision of the Hon'ble Supreme Court in **S. Iyyappan v. United India Insurance Company Limited**² further makes it clear where the driver does not hold valid driving licence to drive the transport vehicle and hold non-transport vehicle driving licence of the same type to fix liability initially on the Insurer to deposit the amount and later recover the same from the owner of the vehicle.

7. When applied the ratio laid down by the Hon'ble Supreme Court in **S. Iyyappan** (2 supra), certainly, it is to be held that there is no merit in the present Appeal, and, therefore, 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, J

Dt. 26.10.2017

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¹ (2004) 3 SCC 297

² (2013) 7 SCC 62