THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

C.M.A.No. 1876 OF 2000

J U D G M E N T:

The appellant National Insurance Company Limited, through this Appeal against the Award dated 10.09.1999 of the Motor Accidents Claims Tribunal-cum-District Judge, Guntur in M.V.O.P. No. 531 of 1995, granting compensation of Rs.1,00,000/- to the respondents – claimants, on account of death of their son, questions its very liability to pay the compensation.

The undisputed facts are:

One Methukulla Prasad (hereinafter be referred to as 'the deceased'), aged 21 years, who was stated to be earning Rs.1,000/- per month as a soda vendor, was the son of the claimants – Respondents herein. On 10.10.1994, at about 10.00 p.m., while he was about to board the bus bearing Registration No. AP 7 1985 belonging to the 3rd respondent, he was pushed down, consequently, he fell on the road and the bus ran over him at Begumpet, Hyderabad, causing his instantaneous death.

The Tribunal, after full-fledged trial, held that the bus of the 3rd respondent herein involved in the subject accident and the deceased died due to the injuries sustained in the said accident. Further, the Tribunal, after analysing the legal proposition placed before it, held that the Insurance Company is liable to pay the compensation.

It may be noted here that though the Tribunal, under different heads, held that the claimants are entitled to Rs.1,51,000/-, since the claim itself is for Rs.1,00,000/-, the compensation amount was restricted to that sum.

Respondent No.1 was reported to have died. Though served, there is no representation on behalf of Respondents 2 and 3.

Learned Standing Counsel for the appellant submits that the Insurance company is not liable to pay the compensation, as respondent No.3 - owner of the vehicle had run the bus as a 'contract carriage' contrary to the permit to run it as a 'stage carriage' between Shyamala Nagar and Nagarjuna University, thereby, violated the terms of the permit and the Insurance policy. It is the further contention of the learned Standing Counsel, relying on the judgment of this Court in ***United India Insurance Company Limited v. Lateefunnisa Begum***[1] that the Tribunal erred in taking multiplier '17' based on II Schedule to Section 163-A of the Motor Vehicles Act, 1988 (for short, 'the Act').

The death of the deceased is not in dispute. As far as the crucial aspect of the alleged violation of the provisions of the Act is concerned, there is also no dispute about the same. The Tribunal, after examining Ex.B2 policy, had recorded that in the column 'classification of the vehicle', it was noted as 'contract carriage'. In other words, the natural presumption would be that the premium paid is with respect to the contract carriage. In para 18 of the Award, it has been further recorded that in the very policy, it was mentioned that the policy is effective either for stage carriage, contract carriage or private service vehicle. "The only embargo was that the person driving the vehicle must hold an effective driving licence at the time of accident and is not disqualified from holding or obtaining such a licence." A careful reading of the above

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[1] 1993 (3) ALT 208

discloses that there is no dispute that the policy covers the usage of the vehicle, even as a contract carriage.

However, the moot question that falls for consideration is whether violation of the provisions of the Motor Vehicles Act exonerates the Insurance Company from its liability.

In the present case on hand, the very contention of the Insurance Company is that the vehicle was used as a 'contract carriage', though, under Ex.B1 permit, it was to be used as a 'stage carriage'. Here, it may be noted that violation of the provisions of the Act, by itself, cannot be a ground for discharging the Insurance Company from its liability, as there is no restriction that the vehicle cannot be used as a 'contract carriage', provided they obtain appropriate permission. However, when the same was used for the purpose of transporting the passengers from Guntur to Hyderabad, there appears to be no permission obtained to run it as a 'contract carriage'. In other words, at best, it can be said that there is violation of the provisions of the 1988 Act in operating the vehicle as a 'contract carriage' though they had only permit to operate it as a 'stage carriage'. It may be a case where the authorities under the Act might have initiated proceedings for violation of the provisions of the Act. That is different from relieving the Insurance Company from the obligation of the policy. It is well-settled that the Insurance policy comes into operation by way of an agreement and the same is a contract. This aspect of the matter does not require much consideration. The Tribunal had relied on various settled propositions laid down by the Division Benches of this Court as well as other High Courts and held that the Insurance Company is liable to pay the compensation. Hence, the Award under Appeal does not require any interference.

In those circumstances, the Appeal is devoid of merit and it is accordingly, dismissed.

The miscellaneous Applications, if any shall stand disposed of.

CHALLA KODANDA RAM, J

13th December 2017

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