SMT JUSTICE T. RAJANI

MACMA.No.87 of 2006

ORDER:

This appeal is preferred by the second respondent - insurance company before the Court below, assailing the Award of learned V Additional Metropolitan Sessions Judge, Mahila Court, Hyderabad-cum-XIX Additional Chief Judge, Hyderabad, in O.P.No.2335 of 2002 dated 14.09.2005 on the grounds that the insurance policy was not in existence as on the date of the accident and the Court below appreciated the contention raised by the second respondent that the policy premium was collected on 30.09.2002 i.e. after the date of accident which took place on 28.09.2002.

At the hearing, learned counsel for the appellant drew the attention of this Court to the Appendix of Evidence which shows that copy of insurance policy was marked as Ex.B.1. From this, it can be said that the observation of the Court below that the second respondent neither filed the insurance policy nor denied that the crime vehicle was not insured with it, is erroneous. A perusal of the insurance policy shows that the period of insurance is shown from 27.09.2002 to 26.09.2003, whereas the date of receipt of premium is shown as 30.09.2002. Learned counsel endeavours to support his contention by saying that the date on which the premium collected alone is to be reckoned as the date from which the policy would commence.

A perusal of the record of the Court below shows that the appellant did not examine any person on its behalf to explain the inconsistency or discrepancy that exists in the insurance policy, which is the document filed by the appellant itself.

Unless the person concerned from the appellant's company examines himself as a witness and explains the reason for the above inconsistency, it cannot be said as to which of the dates i.e., the dates noted in the column of period of insurance or the date of receiving the premium, are erroneous. Hence, without there being any explanation with regard to the contents of the insurance policy, the contents which are beneficial to the victims have to be taken as correct. The claim being under a beneficial legislation, requires interpretation of ambiguous facts to the benefit of the claimants.

In the result, the appeal is dismissed but in the circumstances, without costs.

Pending miscellaneous petitions, if any, shall stand dismissed.

SMT. T. RAJANI, J

16th JUNE, 2017.
kvni