

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL MISCELLANEOUS APPEAL No.3604 of 2003

ORDER:

The present appeal is preferred by the 2nd respondent in O.P.No.956 of 1999 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-District Judge, Adilabad, being the insurer under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act') having got aggrieved over the order and decree, dated 30-12-2002 in the said O.P., whereby and whereunder, the claim laid under Section 166 (1)(a) of the Act for payment of compensation of Rs.2,00,000/- was partly allowed awarding a compensation of Rs.1,45,590/-.

2. The substantial ground agitated to overturn the order and decree passed by the Tribunal is that the policy issued by the appellant is only an Act policy covering the risk of Driver and none others. Admittedly, the claimant, who travelled in the vehicle as passenger, was not permitted to travel and risk was not covered and the policy was a private use vehicles policy and no extra premium was paid to cover the risk of inmates of the car.

3. Heard Smt. A. Jayanthi, learned Standing Counsel for the appellant/2nd respondent, and Sri V. Ravikiran Rao, learned counsel for the 2nd respondent/claimant. As seen

from the record, it appears that service on 1st respondent was not completed.

4. As could be seen from the appendix of evidence, the appellant herein has not let in any evidence to substantiate the grounds now agitated. But, however, there is cover note marked on behalf of the claimant as Ex.A-7. Since, cover note is marked and policy is not marked at all, whether the policy is in tune with the cover note or not, requires examination along with the liability of the insured to pay compensation to the inmates of the car, as it is contended that only the driver's risk was covered and use of the vehicle was for private purpose. These are the issues, which require examination in the light of the terms and conditions of the policy. Therefore, the matter requires to be remitted to the Tribunal for adjudicating upon whether the risk of the 2nd respondent/claimant is covered or otherwise relating to the cover note of the policy under Ex.A-7.

5. Hence, the award and decree, dated 30-12-2002 in O.P.No.956 of 1999 passed by the Chairman, Motor Accidents Claims Tribunal-cum-District Judge, Adilabad, are set aside remitting the matter to the Tribunal with a direction to afford chance to both sides to lead further evidence and to decide the issues already framed. The Tribunal is also directed to

dispose of the matter within a period of three (3) months from the date of receipt of a copy of the order. No costs.

6. Miscellaneous Petitions pending, if any, pending in this Civil Miscellaneous Appeal shall stand closed.

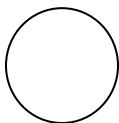
A. SHANKAR NARAYANA, J

August 10, 2017

Pn



HON’BLE SRI JUSTICE A. SHANKAR NARAYANA



CIVIL MISCELLANEOUS APPEAL No.3604 of 2003

TYPED & SENT	16-08-17	PN
WEB		
LR FOLDER	-	-
RETYPE		

August 10, 2017

Pn