

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.2692 of 2017

ORDER:

Heard learned counsel for the petitioner and also taken as heard the respondents for their non-appearance despite proof of service with acknowledgment and even posted today from 30.06.2017 expecting any appearance from the proof of service filed by them and perused the revision grounds and the impugned order of the lower Court.

The petitioner is the 2nd respondent in MVOP.No.234/2010 on the file of II Additional District Judge-cum-Additional Motor Accidental Claims Tribunal, Nalgonda Judicial District at Suryapet (present revenue District). It was filed by the revision respondent Nos.1 to 4 against the revision 5th respondent-owner of the vehicle Hero Honda Splendor bearing No.AP-24-AD-6719 and the revision petitioner-insurer. It is a claim under Section 166 of Motor Vehicles Act for a compensation Rs.20,00,000/- made it appears, which is outcome of crime No.17/2010 of Kethepally dated 13.02.2010 of the accidental death of the husband of the 1st claimant and the father of the claimants 2 to 4. The revision petitioner as 2nd respondent filed counter opposing the claim on various grounds.

In the course of fagend of trial, the 2nd respondent-insurer (revision petitioner) filed I.A.No.563/2016 for filing additional counter to specify with some clarity of the rider of the bike has no valid driving licence and the lower Court dismissed the application on contest by impugned order dated 31.03.2017.

It is the submission of the petitioner that the matter is posted for arguments to 13.07.2017. In fact, once the petitioner is denying from liability to indemnify, the owner of the vehicle pursuant to the policy in question on several grounds and even in the earlier plea driver has no valid driving license in not specifically mentioned so also when wanted to take steps, the lower Court should not have been rejected the same. The reasons assigned by the impugned order of the lower Court even no subsequent pleadings can be received except with leave of the Court under Order VIII Rule 9 CPC and thereby there are no grounds to permit. In fact even from the very wording considered by the lower Court, with leave of the Court, it can be permitted and the Court should have been at best by imposing terms if any allowed the same.

Having regard to the above by setting aside the impugned order of the lower Court, the revision petition is allowed permitting amendment subject to costs of Rs.500/- to the Mandal Legal Services Authority in allowing additional counter in I.A.No.563 of 2016 for deciding the lis with reference to it also.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 06.07.2017
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