The Hon'ble Sri Justice Gudiseva Shyam Prasad

MACMA.No.174 of 2009

Date: 22.06.2018

Judgment:

This Appeal arises out of Order, dated 04-06-2007, in MVOP.No.949 of 2005 on the file of the Motor Accidents Claims Tribunal –cum- District Judge, Karimnagar (for short 'the Tribunal').

Respondent Nos.1 to 3- claimants filed the aforesaid MVOP under Section 166 of the Motor Vehicles Act, 1988, claiming compensation of Rs.4 lakhs against respondent Nos.4 and 5 and the appellant herein for the death of the deceased Adigoppula Laxmaiah @ Laxman in a motor accident that occurred on 01.04.2005. The Tribunal, on consideration of the evidence on record, has allowed the MVOP by awarding compensation of Rs.4 lakhs with interest @ 7.5% p.a., from the date of the petition till the date of realisation. Aggrieved thereby, this Appeal has been preferred by the Insurance Company.

Heard the learned Standing Counsel appearing for the appellant- Insurance Company and the learned Counsel for respondent Nos.1 to 3.

The learned Standing Counsel for the appellant-Insurance Company mainly contended that the driver of the crime vehicle did not possess valid driving license as on the date of the accident. While placing reliance on the evidence of RW.1- Senior Assistant of Insurance Company and RW.2- Administrative Officer in the office of the Deputy Transport Commissioner, Karimnagar, he submitted that the validity of the driving license of the driver of the crime vehicle has expired on 28.05.2004; that the same was renewed only on 20.11.2006; that as on the date of the accident *i.e.,* on 01.04.2005, the driver of the crime vehicle had no valid license; and that he has driven a non-transport vehicle and violated the terms and conditions of the insurance policy.

In **M.Ayyappan and anr. vs. Moktar Singh and another**[1] and **Mukund Devangan vs. The Orental Insurance Company**[2], the Apex Court held that if a person holding license to drive a light motor vehicle registered for private use, is driving a similar vehicle, which is registered or insured for the purpose of carrying passengers for hire or reward, he would not require an endorsement to drive a transport vehicle, as the same is not contemplated by the provisions of the Act.

[1] AIR 1970 Knt 67 = AIR 1970 Mys 67
[2] AIR 2017 SC 3668

In view of the law laid down by the Apex Court in the decisions cited supra, the insurer cannot disown its liability by pleading that the driver of the crime vehicle had no valid driving license as on the date of the accident.

The learned Standing Counsel for the appellant further submitted that the crime vehicle was not having valid permit to ply on the road as on the date of the accident and that the evidence of RWs.1 to 3 shows that the crime vehicle was used without permit.

RW.3 is the Senior Assistant in the office of the Deputy Transport Commissioner and Secretary, Regional Transport Authority, Warangal. He stated that as per his record, AP-36-W-1063 stood in the name of respondent No.2; that as per the permit, the vehicle has to be run within 60 kms from the owner's residence; that respondent No.2 is a resident of Janagaon of Warangal District; and that as per the permit, he cannot drive the vehicle in Karimnagar District. However, he admitted that he has not measured the distance between the place of the accident and the residence of respondent No.2.

In view of the admission of respondent No.3, the distance between the place of the accident and the residence of respondent No.2 has not been established by the Insurance Company. Therefore, it cannot be said that there is violation of the terms and conditions of the insurance policy.

There are no merits for consideration in this Appeal and the same is, accordingly, dismissed.

As a sequel, Miscellaneous Petitions, pending if any, stand disposed of as infructuous.

(Gudiseva Shyam Prasad, J)

Dt: 22nd June, 2017
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