

HON'BLE SRI JUSTICE D.V.S.S. SOMAYAJULU

C.M.A.No.652 of 2009

JUDGMENT:

This Civil Miscellaneous Appeal is filed by the New India Assurance Company Limited questioning the order dated 10.05.2007 in W.C.No.20 of 2005 passed by the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Mahabubnagar.

The case before the Commissioner was filed by the mother, two children and mother-in-law of one Md. Naseeruddin. The said Naseeruddin was working as a driver of lorry bearing No.AP13-T-6228 belonging to the first opposite party (OP-1). The said vehicle is insured with the second opposite party (OP-2). While the Naseeruddin was driving the vehicle, he met with an accident on 21.07.2004 and in the accident, both the driver and cleaner sustained injuries. The police shifted them to Osmania General Hospital, Hyderabad for treatment and while undergoing treatment, the driver succumbed to injuries on 25.07.2004. Therefore, the dependents of the deceased-driver have filed the case for compensation of Rs.4 lakhs for the death.

OP-1 filed a counter admitting that the deceased was employed with him and ultimately pleaded that in view of the valid insurance policy, OP-2 alone is liable to pay the compensation. OP-2 filed a counter denying the entire case set up.

The parties went to trial. For the applicants, AW.1 was examined and she marked Exs.A.1 to A.7. For the respondents, the Asst. Administrative Officer of the insurance company was examined as RW.1 and he marked the extract of Registration Certificate of the lorry as Ex.D.1. The Commissioner after hearing the parties passed an award of Rs.3,77,472/- towards compensation in favour of the applicants. It is this order that is now assailed in the present appeal.

This Court has heard Sri Ravi Sankar Jandhyala, learned counsel for the appellant/insurance company. Despite opportunity being given, there is no representation for the respondents/applicants and so the matter is reserved for judgment.

The essential argument of the learned counsel for the appellant/insurance company is that the vehicle involved in the accident did not have a valid permit and that the same expired on 30.06.2004. Therefore, the learned counsel argues that there is a violation of the policy conditions and that the insurance company is liable to be exonerated. There is no dispute about the age, accident, the insurance coverage etc.

This Court notices that the appellant is relying upon column No.27 of Ex.B.1-insurance policy. This column shows that the tax has been paid for the vehicle and the same is valid up to 20.06.2004. This is the road tax that is paid for the usage of the vehicle. No separate permit was obtained or filed. The tax that is payable expired on 30.06.2004 and that

itself does not lead to a conclusion that the “permit” had expired. In addition to this, this Court also notices that the deceased was a driver of the goods vehicle. Section 147 of the Motor Vehicles Act statutorily covers the driver engaged in driving the vehicle. The award of compensation under this Section has been time and again held to be a statutory coverage of all the drivers, who were employed in driving the vehicle. This statutory coverage extends up to the limit of compensation provided under the Workmen’s Compensation Act. Therefore, this Court finds that the deceased driver is statutorily covered in this case and the mere fact that the road tax expired will not exonerate the appellant/insurance company from all liability. More so, the liability fixed by the statute namely Section 147 of M.V. Act does not contain any such exception to exonerate the appellant. This Court feels that there are no merits in the appeal.

Hence, the Civil Miscellaneous Appeal is dismissed. The order dated 10.05.2007 in W.C.No.20 of 2005 passed by the Commissioner for Workmen’s Compensation and Assistant Commissioner of Labour, Mahabubnagar is confirmed. In the circumstances of the case, there shall be no order as costs.

As a sequel, miscellaneous petitions, if any, pending in this appeal shall stand closed.

D.V.S.S. SOMAYAJULU, J

Date: 20.06.2018
Isn