

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

C.M.A. No.2374 OF 2004

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 ('the Act' for brevity) by the appellant-Insurance Company aggrieved by the order dated 14.07.1997 in M.V.O.P.No.347 of 1995 on the file of the Motor Accidents Claims Tribunal-cum-District Judge, Chittoor ('the Tribunal' for brevity).

2. Heard the learned counsel for the appellant-Insurance company, none appeared for the respondents till date.

3. Learned counsel for the appellant-Insurance company would contend that the offending car bearing No.TDZ 3636 was not insured. No document is filed before the Court to substantiate the same. However, the Tribunal tagged liability on this appellant to the subject accident and granted compensation in favour of the respondents-claimants, which is erroneous and ultimately prayed to set aside the impugned order passed against the appellant-insurance company.

4. During the course of submissions made on behalf of the appellant-insurance company, it is brought to the notice of this Court that the respondents-claimants have filed O.P.No.348 of 1995 under Section 166 of the Act for grant of compensation, which was dismissed

against the 2nd respondent-insurance company by order dated 07.07.2000 by holding that there was no policy of insurance in respect of crime vehicle bearing No.TDZ 3636. In the instant case also, there is no evidence on record to substantiate the appellant's claim in respect of the crime vehicle. Therefore, the award passed against the appellant-insurance company is liable to be set aside.

5. As seen from the entire evidence placed on record, there is no policy of insurance on the date of occurrence of the accident in respect of crime vehicle bearing No. TDZ 3636. There is such specific finding on merits in the order passed on 07.07.2000 in M.V.O.P.No.348 of 1995 on the file of the Motor Accident Claims Tribunal, Chittoor-cum-District Judge, Chittoor.

6. In view of the circumstances, it can safely be concluded that the offending vehicle bearing No. TDZ 3636 was not insured with the appellant-insurer and there was no policy at the relevant point of time. Therefore, no liability can be tagged against the appellant to the subject accident and grant of compensation in favour of the respondents-claimants is liable to be set aside.

7. In the result, the order passed against the appellant-respondent in M.V.O.P.No.347 of 1995 dated 14.07.1997 on the file of the Motor Accident Claims Tribunal-cum-District Judge, Chittoor is set aside and the appeal is allowed accordingly. The appellant-insurance

company is permitted to withdraw the amount, if any, deposited by it in the main O.P.

Miscellaneous Petitions pending, if any, shall stand closed.

There shall be no order as to costs.

Dr. SHAMEEM AKTHER, J

Date: 13.06.2018
ssp

