

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

CIVIL MISCELLANEOUS APPEAL No.4869 OF 2004

JUDGMENT:

This appeal is filed by the appellant-Insurance Company under Section 173 of the M.V. Act, aggrieved by the judgment, dated 13.09.2004, in M.V.O.P.No.151 of 2001, passed by the Motor Accident Claims Tribunal-cum-III Addl. District Judge, Tirupathi , for enhancement of compensation.

2. Heard the learned standing counsel for the appellant, the learned counsel for the 1st respondent and perused the record.

3. Learned counsel for the appellant would submit that Ex.B1 in the instant case is an act policy. It does not cover the risk of pillion rider, who is the claimant in this case. The Tribunal erroneously tagged the liability against the insurance policy.

4. As per the evidence adduced in the instant case, the claimant was the pillion rider of motorcycle bearing No. AP 03 C.905. He suffered injuries due to rash and negligent driving of the rider of the vehicle. Ex.B1, which is the copy of policy, reveals that it is an act policy. There is also admission by employee of the appellant-Insurance Company that Ex.B1 is act policy. The only contention is that whether the act policy covers the risk of pillion rider. There is admission on the part of R.W.1 that claimant was a third party. The Tribunal had relied on a decision in **M.LAXMI AND OTHERS V V.M.YADI REDDY AND ANOTHER** in C.M.A.No.2512 of 1999, wherein his Lordship Justice C.Y.Somayajulu, held as follows:

“The insurer of two wheeler is liable to pay compensation for the death or injuries of a pillion rider under Act policy”.

5. Relying on the above decision, the Tribunal tagged the liability against the owner as well as insurer of the crime vehicle. There is no specific mention under Ex.B1-policy excluding the pillion rider from coverage of risk. Since the claimant being third party to the policy of insurance marked as Ex.B1, the appellant-Insurance Company cannot absolve its liability from paying compensation to the third party.

6. Under these circumstances, the submission made on behalf of the appellant does not merit consideration. Therefore, the appeal is devoid of merit and is liable to be dismissed.

7. Accordingly, this Appeal is dismissed confirming the judgment, dated 13.09.2004, in M.V.O.P.No.151 of 2001, passed by the Motor Accident Claims Tribunal-cum-III Addl. District Judge, Tirupathi. No order as to costs. Miscellaneous petitions, if any pending in this appeal shall stand closed.

DATED: 07-06-2018
Hsd

DR.SHAMEEM AKTHER, J