THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.1408 OF 2005

JUDGMENT:

This appeal is filed by the appellant-claimant under Section 173 of the M.V. Act, aggrieved by the order, dated 04.11.2004, in O.P.No.1226 of 2002, passed by the Motor Accident Claims Tribunal-cum-VI Addl. District and Sessions Judge, Nalgonda at Miryalaguda, for enhancement of compensation and fastening the liability against the respondent-insurer.

2. Heard both sides and perused the record.

3. Learned counsel for the appellant-claimant would contend that the Tribunal erred in dismissing the claim against the respondent-insurer. The cancellation of policy for non-payment of premium cannot be a ground to deny the compensation against the respondent-insurer and ultimately, prayed to enhance the compensation against both the respondents and also fasten the liability against the respondent-insurer.

4. On the other hand, learned standing counsel for the respondent-insurer would contend that the Tribunal had rightly dismissed the claim petition against the insurer. There are no circumstances either to enhance or fasten the liability against the respondent-insurer and ultimately, prayed to dismiss the appeal.

5. To substantiate the claim, the claimant examined himself as P.W.1 and examined P.W.2-K.Guravaiah and Ex.A1-attested Xerox copy of FIR, Ex.A2-attested Xerox coy of charge sheet, Ex.A3-attested Xerox

copy of MC, Ex.A4-Xray (2), Ex.A5-medical bills and prescriptions containing (31) and Ex.A6-Lab reports (2) were got marked. On behalf of the respondent-Insurance Company, R.W.1 was examined and Ex.B1-bank memo, Ex.B2-memo issued by SBH, Wazeerabad Branch, Ex.B3-Cheque issued by R1, dated 18.06.2001, Ex.B4-letter addressed to the insured and Ex.B5-attested copy of policy were got marked.

6. The Tribunal, after taking all the factors into consideration awarded compensation of Rs.35,000/- with interest at 9% p.a. in favour of the appellant-claimant for suffering injuries due to rash and negligent driving of the lorry bearing No. AP 16 W 8241 by its driver, which is just and reasonable compensation. There are no circumstances to interfere with the same.

7. The next point for determination is whether the liability can be fastened against the respondent-insurer.

8. From the material on record, respondent No.1-owner of the offending vehicle, issued Ex.B3-cheque No.932595, dated 18.06.2001 in favour of respondent-insurance company towards payment of premium for the insurance policy of the offending vehicle. The cheque was dishonoured. Ex.B2 is the Memo issued by State Bank of Hyderabad, Wazeerabad branch. The claimant also admitted in his evidence about the dishonour of the cheque. Under Ex.B4-letter, the insurance company informed the insured with regard to the dishonour of the cheque and cancellation of the policy of insurance. The subject accident occurred on 21.4.2002, i.e. much after cancellation of the insurance policy. As the accident

occurred after the dishonour of the cheque and cancellation of the policy of insurance, no liability can be fastened against the insurance company. In the circumstances of the case, the Tribunal is justified in taking such a view. Therefore, there are no grounds in the appeal. The appeal is devoid of merit and is liable to be dismissed.

9. Accordingly, the Appeal is dismissed confirming the order dated 04.11.2004, in O.P.No.1226 of 2002, passed by the Motor Accident Claims Tribunal-cum-VI Addl. District and Sessions Judge, Nalgonda at Miryalaguda. No order as to costs. Miscellaneous petitions, if any pending in this appeal shall stand closed.

DR.SHAMEEM AKTHER, J

DATED: 27-06-2018
Hsd