

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2345 OF 2005

AND

CROSS OBJECTIONS (SR) No.43702 OF 2005

COMMON JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant/the United India Insurance Company Limited challenging the order, dated 01.12.2004, passed in O.P.No.74 of 1996 by the learned Chairman, Motor Accident Claims Tribunal – cum - II Additional District Judge, Chittoor at Madanapalle.

2. Heard the submissions of the learned Standing Counsel appearing for the United India Insurance Company representing the appellant and the learned counsel for the 1st respondent/claimant, and perused the material on record.

3. Learned Standing Counsel for the appellant/Insurance Company would contend that the Tribunal ought not to have directed the appellant/Insurance Company to pay the compensation awarded at the first instance and then recover the same from the 2nd respondent/owner of the jeep bearing No.AP-03-B-4419/offending vehicle and ultimately, prayed to allow the appeal by setting aside the order under challenge.

4. During the pendency of the appeal, the 2nd respondent/owner of the vehicle filed Cross Objections with regard to the subject direction given by the Tribunal. Admittedly, there is no coverage of policy of insurance in respect of the claimant. No additional premium was paid to cover his risk. As regards the

direction given by the Tribunal to the appellant/Insurance Company to pay the compensation to the claimant at the first instance and then, recover the same from the owner of the offending vehicle, it is apt to refer to the decision of the Apex Court in **Manuara Khatun and others Vs. Rajesh Kumar Singh and others**¹, wherein the Apex Court directed the insurer/Insurance Company to deposit the compensation awarded at the first instance and then, recover the same from the owner of the offending vehicle. In view of the said decision of the Apex Court, the direction given to the appellant/Insurance Company in the impugned order holds good. The appellant/Insurance Company is entitled to recover the amount deposited by it before the Tribunal towards compensation from the 2nd respondent herein/owner of the offending vehicle in the same proceedings by filing an Execution Application.

5. With the above direction, both the appeal as well as the cross objections are dismissed. There shall be no order as to costs.

6. Miscellaneous petitions pending, if any, in this appeal shall stand closed.

DR.JUSTICE SHAMEEM AKTHER

Date : 23.07.2018
AMD

¹ 2017 ACJ 1031

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