

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No.2613 OF 2005

JUDGMENT:

This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act') aggrieved by the order dated 11.03.2004 passed in M.V.O.P. No.107 of 2001 on the file of the Chairman, Motor Accident Claims Tribunal-cum-District Judge, Cuddapah (for short, 'the Tribunal'). The Divisional Manager, the New India Assurance Company Limited, Cuddapah, who is appellant herein, is the 2nd respondent in the original petition. The 1st respondent herein is the petitioner and the 2nd respondent herein is the owner of the offending vehicle in the original petition.

2. For the sake of convenience, the parties hereinafter referred to as they were arrayed before the Tribunal in the original petition.

3. Heard the learned Standing Counsel for the appellant-insurer of the offending vehicle. Though served with notice, there is no representation on behalf of the 1st respondent-claimant. In spite of service of notice, none appeared on behalf of the 2nd respondent-owner of the offending vehicle. Since this appeal relates to the year 2005, it can be disposed of on merits.

4. The dispute raised on behalf of the 2nd respondent-insurer in this appeal is the risk of the labourer engaged on the offending vehicle, i.e., tractor and trailer bearing registration No.AP 04T 4562 and 4563, was not covered under Ex.B.1-copy of insurance policy. The contention raised on behalf of the claimant is that he was engaged as a coolie under the 1st respondent-owner for loading and unloading the mud. As per the evidence on record, it is established that the claimant was a coolie to dig the mud from the canal. The Tribunal had elaborately dealt with this issue and tagged liability to the 2nd respondent-insurer. This Court in a connected case, i.e., M.A.C.M.A. No.2643 of 2005 dated 07.04.2017, had negated the submission made on behalf of the 2nd respondent-

insurer that the risk of the labourer engaged on the offending vehicle was not covered under Ex.B.1-copy of insurance policy and held that since the petitioner travelled in the offending vehicle as a coolie, the finding of the Tribunal fastening liability on the 2nd respondent-insurer cannot be faulted. Under these circumstances, there is nothing to interfere with the finding of the Tribunal. The appeal is devoid of merit and it is liable to be dismissed.

5. In the result, this appeal is dismissed confirming the order dated 11.03.2004 passed by the Tribunal in M.V.O.P. No.107 of 2001. Miscellaneous Petitions pending, if any, shall stand closed. There shall be no order as to costs.

Date: 21.06.2018
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Dr. SHAMEEM AKTHER, J