

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

MACMA NO. 782 OF 2006

JUDGMENT:

This appeal is directed by the appellant/Respondent No.2 seeking to allow the Appeal by setting aside the order dated 09-09-2005, passed by the Motor Accidents Claims Tribunal-cum-I Additional District Judge, R.R.District at L.B.Nagar.

2. It is a case of death. The claimants made a claim for a sum of Rs.1,75,000/-for the death of A.Swamulu who died on 12.03.2001 at 4-30p.m. when the tractor trailer turned turtle in which he was traveling as a labour along with load of bricks.

3. The trial Court examined P.W1, wife of the deceased, and marked Exs.A1 to A5 and Ex.B1-copy of insurance policy.

4. In Ex.A4-final report, the Investigating Officer has categorically stated that because of rash and negligent driving of the driver, the accident has taken place, in which driver Mallesh and the deceased Swamulu died at the spot.

5. As per Ex.B1-policy, the vehicle is insured and the accident has taken place during subsistence of the policy. However, it is only an Act policy issued in favour of tractor and trailer and one driver and accordingly, the premium has been collected. There is no specific premium collected for labour or passengers, though it is a goods vehicle and used for loading and unloading purposes. Moreso, there is violation of policy conditions and particularly when it is an Act policy and not a package and comprehensive

policy, no liability can be fixed. Hence, this Court finds that the insurance company is not liable to pay the compensation since there is no obligation on the part of the insurance company. However, since vehicle is covered under the policy, this Court feels that principle of pay and recovery can be adopted and accordingly, appeal is ordered directing the insurance company to pay the compensation awarded by the trial Court with 7.5% interest instead of 9% to the petitioners and the same be recovered from the owner of the vehicle.

6. Accordingly, the appeal is allowed to the extent indicated above. There shall be no order as to costs.

Miscellaneous petitions if any, shall stand closed.

Date: 05-11-2019
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T.AMARNATH GOUD,J