

HONOURABLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.799 of 2011

JUDGMENT:

This appeal is filed by the United India Insurance Company Limited under Section 173 of the Motor Vehicles Act aggrieved by the orders passed by the Chairman, Motor Accidents Claims Tribunal-cum-Principal District Judge, Nalgonda (for short 'the Tribunal'), in O.P.No.145 of 2009 dated 11.01.2011.

2. For the sake of convenience, the parties herein are referred to as arrayed in the Court below.

3. The brief facts of the case are that on 16-11-2008 the deceased along with his colleagues went to Mamidpally to dug a bore well and while returning to Pothireddypally on said bore well lorry and when they reached outskirts of Pothireddypally, the driver of said lorry drove the same in a rash and negligent manner, as a result the deceased fell down from the vehicle and rear tyres of the vehicle ran over the legs of the deceased, due to which he sustained fractures and other multiple injuries. Immediately, the deceased was shifted to Government Hospital, Sanga Reddy, where he got first aid and later on the advice of the doctors he was shifted to KIMS, Hyderabad and thereafter he was admitted in Gandhi Hospital, Secunderabad, where he was succumbed to the injuries while undergoing treatment. According to the claimants, the deceased was earning Rs.8,000/- per month as driller on the bore well machine.

4. The Tribunal after framing the issues and examining the witnesses, allowed in part the claim of the claimants and awarded

an amount of Rs.5,98,306/- against the claim of Rs.7,50,000/-.
Aggrieved by said award, the insurance company preferred the present appeal.

5. Learned counsel for the appellant-insurance company contended that before fixing the liability on the insurance company the Tribunal ought to have examined Exs.B1 & B2, policy of insurance, that it covers the risk of the labourer for loading and unloading the material from the insured bore well and said policy does not cover the risk of those labourers while the said vehicle is in transit and the Tribunal ought to have seen that the deceased has fallen down from the vehicle when the vehicle was in transit. It is further submitted that the Tribunal failed to see the condition of the policy which clearly states that the policy does not cover the risk of the labourers while the vehicle is in moving condition and sought to exonerate him from the liability by allowing the appeal.

6. Learned counsel for the claimants-respondent Nos.1 & 2 supported the award of the Tribunal and sought to dismiss the appeal.

7. From perusal of the record, it is clear that the deceased who was sitting on the bore well fell down from the vehicle and the wheels of the crime vehicle ran over his body and this act attracts the policy of third party injury and the award of the Tribunal is well considered and requires no interference of this Court and the appeal is liable to be dismissed.

8. Accordingly and in the result, this Appeal is dismissed by confirming the order of the Tribunal. No costs.

Miscellaneous petitions if any shall stand closed.

T.AMARNATH GOUD, J

Date: 23.12.2019
ska

