THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.NO.669 OF 2012

JUDGMENT:

The present appeal is filed by the Insurance Company against the judgment dated 10.11.2011 in M.V.O.P.No.215 of 2006 passed by the Principal Motor Accidents Claims Tribunal-cum-Principal District Judge, Warangal.

For the sake of convenience, the parties hereinafter will be referred as they were arrayed before the Tribunal.

The claimant filed claim petition claiming compensation of Rs.5,00,000/- on account of the injuries sustained by her in a motor vehicle accident occurred on 27.06.2005 at 11 am near Narayanapuram bus stop. The claimant is a gratuitous passenger who boarded the auto bearing No.AP-36-W-3628 to go to Bhupalpally. On the way, due to rash and negligent driving of the driver of the auto, it turned turtle, as a result of which the claimant sustained injuries. A case was registered in Crime No.93 of 2005 under Sections 337 and 338 of the Indian Penal Code. The injured-claimant was shifted to MGM Hospital, Warangal and was treated as in-patient and on account of the injuries to the right eye, she became permanently disabled. The claimant, who is a vegetable vendor and tapper, could not attend her normal duties and lost her monthly income of Rs.3,000/-. Hence, the claim petition.

Mr. Kota Subba Rao, learned Standing Counsel for the Insurance Company, submits that the respondents have committed gross violation of the insurance policy since the goods vehicle-auto is not proposed to carry the claimant and accordingly, the insurance company is not liable to pay the compensation and prayed to allow the appeal and dismiss the claim petition.

Per contra, Mr. Ajay Kumar Madisetty, learned counsel appearing on behalf of the respondent No.1-claimant, stated that the insurance company is liable to pay the compensation as the offending vehicle is covered by the insurance policy i.e. from 15.01.2005 to 14.01.2006 and the accident had taken place on 27.06.2005. Further, he relied upon the judgment of the Apex Court reported in **Shivaraj v. Rajendra & Anr.**[1] wherein the Apex Court has categorically held that the argument of the insurance company that it is not liable for the loss or injury suffered by the claimant or to indemnify the owner of the tractor is unacceptable and held that the insurance company is liable to pay the compensation to the claimants since the vehicle is covered under insurance policy with liberty to recover the same from the owner of the offending vehicle.

Admittedly, it is seen from ExA3-charge sheet that there were more than two passengers travelling in the auto and it is not denied that except the present claimant there is no other claim made by the other passengers against the insurance company. Therefore, the case on hand is squarely covered by the settled principle of law laid down by the Apex Court in the decision cited *supra*.

The appeal is, accordingly, dismissed confirming the judgment dated 10.11.2011 in M.V.O.P.No.215 of 2006 passed by the Principal Motor Accidents Claims Tribunal-cum-Principal District Judge, Warangal. It is open to the appellant-insurance company to pay and recover. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand dismissed.

T.AMARNATH GOUD, J

02.08.2019
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[1] **2018 AIR (SC) 4252 = 2018 Law Suit (SC) 853**