

THE HONOURABLE JUSTICE G. SRI DEVI

M.A.C.M.A. No.5088 of 2008

JUDGMENT :

This appeal is filed by the Insurance Company aggrieved of the order and decree dated 27.07.2005 in O.P.No.527 of 2002 on the file of Motor Accidents Claims Tribunal (I Additional District Judge) at Khammam.

2. On 03.02.2002, while the deceased Borraju Bakkaiah was proceeding from Manugur to Vijayawada on professional courier service work in a car bearing No.AP 7 X 1107 and when they reached at Penuballi outskirts, the driver of the said car drove it in high speed, rash and negligent manner and dashed against a tree, due to which the deceased received head injury. The inmates of the car shifted Bakkaiah to Government Hospital, Penubally, where the doctors declared him dead. Claimant No.1 is the father, claimant No.2 is the mother and claimant No.3 is the sister of the deceased.

3. The Tribunal, on examining the oral and documentary evidence on record, partly allowed the O.P., awarding a total compensation of Rs.2,40,000/- along with costs and interest @ 9% per annum from the date of petition till the date of realization, to be deposited within 30 days from the date of said order. Aggrieved thereby, the appellant-Insurance Company has filed this appeal.

4. Heard both sides and perused the record.

5. Learned Standing Counsel for the appellant contended that the driver and owner of the Car bearing No.AP 07 X 1107 have violated the terms and conditions of the Insurance policy. It is further contended that at the time of accident, the driver of the said car was having licence to drive a light motor vehicle (non-transport). Without having any badge or endorsement on the licence to drive the transport vehicle, he drove the car, which is a light motor vehicle. Therefore, the finding of the Tribunal in not exonerated from the liability is liable to be set aside.

6. Learned counsel for respondent Nos.1 to 3/claimants vehemently opposed the contention of the learned counsel for the appellant. He relied on a judgment of the Hon'ble Supreme Court in **Mukund Dewangan v. Oriental Insurance Company Limited**¹. While relying on the said judgment, it is contended that no separate endorsement on the licence is required to drive a transport vehicle, though licence is issued for driving light motor vehicle.

7. A perusal of the said judgment in Mukund Dewangan (supra) at para 60.4, the Hon'ble Supreme Court has categorically held as under:

“The effect of amendment of Form 4 by insertion of “transport vehicle” is related only to the categories which were substituted in the year 1994 and the procedure to obtain driving licence for transport vehicle of class of “light motor vehicle” continues to be the same as it was and has not been changed and there is no requirement to obtain separate endorsement to drive transport vehicle, and if a driver is holding licence to drive light

¹ (2017) 14 SCC 663

motor vehicle, he can drive transport vehicle of such class without any endorsement to that effect”.

In view of the law laid down by the Hon’ble Supreme Court in the above judgment, I am of the considered view that there are no valid grounds to interfere with the findings of the Tribunal. Thus, I do not find any illegality or infirmity in the impugned order and decree, warranting interference by this Court.

8. The appeal is devoid of merit and it is accordingly dismissed.

No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

JUSTICE G.SRI DEVI

Date: 27.12.2021

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