THE HON'BLE SMT. JUSTICE M.G. PRIYADARSINI

M.A.C.M.A. No. 3290 of 2014

JUDGMENT:

ICICI Lombard General Insurance Company Limited, respondent No. 3 before the Tribunal, filed this appeal assailing the order and decree, dated 15.05.2014 passed in M.V.O.P.No.130 of 2010 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-Judge, Family Court-cum-Additional District Judge at Karimnagar, whereby a compensation of Rs.4,71,800/- with interest at the rate of 7.5% per annum, has been awarded to be paid by the owner of the crime vehicle i.e., respondent No. 5 herein and the insurer, the appellant herein on account of death of the deceased, Dontha Mallaiah, in the accident that occurred on 31.05.2008 which took place as a result of turning turtle of auto trolley bearing No. AP 15X 8822, being driven by respondent No. 4 herein in a rash and negligent manner. The challenge in this appeal is on the ground of liability.

2. Learned counsel for the insurer submits that admittedly, the offending vehicle is a goods vehicle; that Ex.B. 1 policy covers only one person i.e., driver, that no premium was paid to cover the risk of the passengers; that the deceased was not the owner of the goods vehicle, but the Tribunal grossly erred in fastening the liability on the insurer. It is contended that the tribunal grossly erred in relying

upon the police report and the charge sheet to conclude that the deceased was owner of the goods and in fact, the deceased was not carrying any goods but was traveling as passenger. He, therefore, prays that the impugned award should be set aside in so far as holding the insurer to be liable to satisfy the award.

3. The learned counsel for the claimants, *per contra*, supported the award and decree passed by the Tribunal and fastening the liability on the Insurance Company to pay the compensation and contended that even in the cross-examination, R.W.2, the Legal Manager of the Insurance Company, clearly admitted that the deceased was traveling on the offending vehicle as owner of the goods.

3. The finding of the Tribunal with regard to the manner in which the accident took place has become final as the same is not challenged by either of the respondents. A perusal of the impugned award discloses that R.W.1, the owner of the offending vehicle, deposed that the driver, respondent No. 4 herein, was having valid driving licence and the vehicle was covered by Ex.B. 1 policy.

4. As regards the liability of payment of compensation, it is no-doubt true that if any person, other than the owner of the goods traveled in the insured vehicle (goods vehicle), the insurer would not

be liable. However, as seen from the evidence, R.W.2, the Legal Manager of the Insurance Company, clearly admitted in the cross-examination that after completion of investigation, police laid the charge sheet wherein the deceased was shown as owner of the goods. Even though R.W.1, the owner of the offending vehicle, was examined on behalf of insurance company, in this regard, nothing is elicited in his evidence. Thus, as per the own evidence of the insurance company coupled with documentary evidence, Ex.A.2, it was established that the deceased was traveling on the offending vehicle as the owner of the goods. Admittedly, the vehicle involved in the accident is a goods carriage vehicle and not a Contract Carriage Vehicle. Insofar as the goods carriage vehicle is concerned, Section 147 of the M.V. Act makes an exception, to the passengers, who accompany the goods, as owners or their representatives. As per Section 147 of the Motor Vehicles Act, liability to pay compensation to the owner of the goods or his authorised representatives, travelling in a Goods Vehicle, is covered under Act Policy. The provision amply makes it clear that there is no total prohibition, as to the coverage of liability for the persons travelling in a Goods Vehicle, other than the owner of the goods or his representative. The insurer is absolved of its liability from payment of Compensation only, in the case, where the injuries or death occurred to an individual, travelling in the goods carriage vehicle, not in the capacity as owner of goods. Therefore, this Court is of the view that the tribunal has rightly rejected the contention of the Insurance Company in this regard and no ground is made out to interfere with the impugned order of the tribunal.

5. In the result, the appeal stands dismissed. No order as to costs.

Miscellaneous petitions, if any pending in this appeal, shall stand closed.

JUSTICE M.G.PRIYADARSINI

05.12.2022
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M.A.C.M.A. No. 3290 of 2014

DATe: 05-12-2022