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

M.A.C.M.A.No.3279 OF 2014

JUDGMENT:

This appeal is preferred by the appellant/Reliance General Insurance Company Limited, questioning the order and decree, dated 24.12.2013 passed in M.V.O.P.No.2194 of 2010 on the file of the learned Chairman, Motor Accident Claims Tribunal-cum-XIV Additional Chief Judge (Fast Track Court), City Civil Courts, Hyderabad (for short, the Tribunal).

2. For the sake of convenience, hereinafter, the parties are referred to as per their array before the Tribunal.

3. Brief facts of the case are that originally, the petitioners who are wife and sons of the deceased have filed a petition, claiming compensation of Rs.8,00,000/- as the deceased i.e., D.Ramulu died in the motor accident that took place on 25.06.2010. It is stated that while the deceased D.Ramulu was going on his TVS Motorcycle bearing No. AP 11 AE 1327 to Jaipuri Colony, Nagole, when he reached infront of traffic police station, LB Nagar, suddenly the driver of one auto bearing No. AP 10 W 1374 came in a rash and negligent manner and dashed TVS Motorcycle. Due to which D.Ramulu fell down on the road and sustained grievous injuries. Immediately after the accident he was shifted to Kamenine Hospital, LB Nagar, for treatment. While, getting treatment he died on 25.06.2010 at 08.00 hours. The police of LB Nagar Police Station had registered a case in Crime No.799 of 2010 against the driver of the said auto, for the offence punishable under Section 304(A) of IPC. While the deceased died, the petitioners have contested the claim denying the averments made in the claim petition as to the age, avocation and income of the deceased.

4. The 1st respondent set exparte.

5. The 2nd respondent/Insurance company filed counter denying the manner of accident, age, avocation and income.

Based on the above pleadings, the Tribunal framed the following issues:

1) Whether the pleaded accident dated 24.06.2010 was occurred due to rash and negligent driving of the driver of crime vehicle i.e., auto bearing No.AP 10 W 1374 and

whether the deceased D.Ramulu died due to the said Accident?

2) Whether the petitioners are entitled for compensation and if so, to what quantum and whether crime vehicle was owned by first respondent and insured with second respondent and what is the liablity of the respondents?
3) To what relief?

In support of their claim, the appellants examined PWs.1 and 2 and got marked Exs.A1 to A9. On behalf of the respondents, the respondents examined R.W.1 and got marked Exs.B1 and B2 were marked.

6. After considering the claim and the counter filed by respondent No.2, and on evaluation of the evidence, both oral and documentary, the learned Tribunal has partly allowed the O.P. and awarded compensation of Rs.7,80,200/- with interest at 7.5% interest per annum to be paid by respondent Nos.1 and 2 jointly and severally. Being not satisfied with the said compensation, the appellant filed the present appeal.

7. Heard both sides and perused the material available record.

8. The learned Standing Counsel for the appellant/Insurance Company contended that since there was no separate endorsement on the driving licence of the driver of the subject vehicle bearing No. AP 10 W 1374 to drive the transport vehicle, it is to be construed that the driver of the subject vehicle had no valid driving licence. On this ground, the Tribunal ought to have absolved the appellant/Insurance Company from the liability and ultimately, prayed to allow the appeal, as prayed for.

9. It is not in dispute that the deceased- D.Ramulu died in the accident that occurred on 24.06.2010, due to rash and negligent driving by the driver of the offending auto bearing registration No. AP 10 W 1374. The only question that requires determination is whether the driver of the subject vehicle No. AP 10 W 1374 is authorised to drive the subject transport vehicle.

10. Here, it is appropriate to refer the decision of the Hon'ble Apex Court in ***Mukund Dewangan vs. Oriental Insurance Company Limited***[1], wherein it was held that there is no requirement to obtain separate endorsement to drive transport vehicle, and if a driver is holding licence to drive light motor vehicle, he can drive transport vehicle of such class without any endorsement to that effect. Therefore, the contention of the appellant/Insurance Company that the driver of the subject vehicle bearing No.AP 10 W 1374 had no valid driving licence to drive the subject transport vehicle, is unsustainable. There is no legal infirmity in the impugned award and decree dated 24.12.2013 passed by the Tribunal to absolve the appellant/ Insurance from the liability. Thus, in view of the above discussion, this Court is of the view that this appeal is devoid of merit and is liable to be dismissed.

11. Accordingly, this appeal is dismissed. No costs.

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

[1] (2017) 14 Supreme Court Cases 663

M.G.PRIYA DARSINI, J

Date: 28th October, 2022
PSA