THE HON'BLE SRI JUSTICE M.LAXMAN

CIVIL MISCELLANEOUS APPEAL No.685 of 2007

JUDGMENT:

1. The present Civil Miscellaneous Appeal has been directed against the order dated 18.06.2007 in W.C.No.150 of 2004, on the file of the Court of the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Nalgonda, whereby, the claim made by the respondent Nos.1 to 4 herein for compensation for the death of driver of jeep bearing registration No.AP-24V-2577 was partly allowed and granted compensation of Rs.3,26,883/-. Aggrieved by the same, the present appeal is filed at the instance of respondent No.3.

2. Heard the learned counsel for the appellant/insurance company. There is no representation for the learned counsel for contesting respondents. Perused the materials placed on record.

3. The main contention in the present appeal is that there is a transfer of ownership of the vehicle and transferee has not complied with the requirement of Section 157(2) of Motor Vehicle Act. The second contention is that there was a change in classification of vehicle.

4. According to the learned counsel for the appellant/insurance company, the policy was issued for commercial vehicle and while transferring ownership, the commercial vehicle has been converted into a private vehicle. Therefore, according to the learned counsel for the appellant/insurance company, the appellant/insurance company is not liable to pay compensation.

5. In the light of the aforesaid submissions, the following substantial questions of law arises for consideration in this appeal is as follows:

> *"(i). Whether the Insurance Company can disclaim of liability on the ground that the transferee has not complied the requirement of Section 157(2) of Motor Vehicle Act and on account of change clarification of vehicle."*

6. It is not in dispute that respondent No.5 herein is the original owner of the jeep bearing registration No.AP-24V-2577 and he obtained the policy from the insurance company covering all liabilities treating the vehicle as commercial vehicle and subsequently, the vehicle was transferred to respondent No.6 herein. It is also not in dispute that while transferring the ownership of the vehicle, the classification of the vehicle was also

changed i.e., commercial vehicle has been converted into private vehicle.

7. Now the question is merely because transferee has not complied with the conditions of Section 157(2) of the Motor Vehicle Act, the claimant is not entitled to claim compensation.

8. In this regard it is relevant to refer to Section 157 of the Motor Vehicle Act, which reads as under:

> *"**157.Transfer of certificate of insurance.**-(1) Where a person, in whose favour the certificate of insurance has been issued in accordance with the provisions of this Chapter, transfers to another person the ownership of the motor vehicle in respect of which such insurance was taken together with the policy of insurance relating thereto, the certificate of insurance and the policy described in the certificate shall be deemed to have been transferred in favour of the person to whom the motor vehicle is transferred with effect from the date of its transfer.*
>
> *Explanation._ For the removal of doubts, it is hereby clarified that such deemed transfer shall include transfer of rights and liabilities of the said certificate of insurance and policy of insurance.*
>
> *(2) The transferee shall apply within fourteen days from the date of transfer in the prescribed form to the insurer for making necessary changes in regard to the fact of transfer in the certificate of insurance and the policy described in the certificate in his favour, and the insurer shall make the necessary changes in the certificate and the policy of insurance in regard to the transfer of insurance."*

9. A reading of the sub section 1 of Section 157 of the Motor Vehicle Act, it shows that the certificate of insurance and the

policy described in the certificate deemed to have been transferred in favour of the person to whom the vehicle is transferred with the effect from the date of transferring. The explanation clearly laid down that such deemed transfer shall include transfer of rights and liabilities of the said certificate of insurance and policy of insurance. Sub Section 2 of Section 157 of the Motor Vehicle Act shows that the transferee shall apply to the insurer within a period of 14 days from the date of transfer intimating the transfer of vehicle to facilitate the necessary changes in the certificate and policy of insurance.

10. The contention of the learned counsel for the appellant/insurance company is that sub sections 1 & 2 of Section 157 of the Motor Vehicle Act shall be read together and the benefit under first provision shall apply only if the second provision is complied with. This argument is accepted.

11. In the present case, the first provision became redundant and as such no benefit can be extended and both sections have to be reconciled to give effect to the intention of legislature. The very object of the first provision is that the third parties shall be entitled to certain benefits under the Motor Vehicle Act and they shall not be deprived of the benefits on account of transfer of

policy, in the absence of intimation to the insurer. The second provision is intended to create an obligation on the transferee to make an application intimating the transfer of ownership of the vehicle. This provision is made in order to facilitate the insurer to effect changes and breach of this statutory duty by the transferee disentitled him to claim anything covered under the policy and this failure did not take away the rights of third parties viz-a-viz liability by the owner of the transferred vehicle. Therefore, the said contention of the learned counsel for the appellant/insurance company is rejected.

11. The other contention of the learned counsel for the appellant/insurance company is that on account of change in classification of the vehicle, the appellant/insurance company is not liable to pay compensation. This argument is also not merited. The change of commercial vehicle into private vehicle is not creating any onerous liability. In fact the liability has been reduced on account of operation of the vehicle for private purpose and if the vehicle is operated for commercial purpose, there is more scope for untoward incidents than a vehicle is operated for private purpose. When the onerous liability is undertaken merely because such onerous liability is converted into lesser onerous liability, the appellant/insurance company cannot contend that

such a change is entitled to onerous liability. Therefore, I do not find any merit in this appeal and it is liable to be dismissed.

12. Accordingly, this Civil Miscellaneous Appeal is dismissed. The order dated 18.06.2007 in W.C.No.150 of 2004, on the file of the Court of the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Nalgonda, is hereby confirmed.

No costs. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.LAXMAN

05.01.2023
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