

THE HON'BLE SRI JUSTICE M.LAXMAN
CIVIL MISCELLANEOUS APPEAL No.484 of 2009

JUDGMENT:

1. The present Civil Miscellaneous Appeal has been directed against the award dated 10.09.2008, in W.C.No.4 of 2006, on the file of the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Nizambad (for short "Commissioner"), whereunder, the claim of respondent Nos.1 and 2 for grant of compensation on the death of the deceased viz., Linganna, was allowed granting compensation of Rs.4,42,740/-. Aggrieved by the same, the present Civil Miscellaneous Appeal is filed at the instance of Insurance Company/appellant herein.

2. The main challenge in the present appeal is that the deceased was not holding any licence and the same was endorsed in the Motor Vehicle Inspector's Report. Therefore, the deceased cannot be treated as a driver and he was not in valid employment with the owner of the tractor i.e., respondent No.3. It is also claim of the Insurance Company/appellant herein that the tractor was registered for agricultural purpose, however, it was used for other commercial purpose at the time of the accident occurred. Further three persons were travelling in the tractor. It is contrary to the

capacity of the tractor, which allows only one person, who must be a driver.

3. Heard the learned counsel for the Insurance Company/appellant herein and perused the materials placed on record. There is no representation for the respondents.

4. On a perusal of the records, in Ex.B5/xerox copy of MVI report, no where it is stated that the driver was not holding licence, however, there was an endorsement that the licence was not available, it does not mean that the driver has no licence. Except relying upon Ex.B5/Xerox copy of MVI report, no material has been placed to show that the deceased driver driving the vehicle without licence. Therefore, challenge on this ground is unmerited and the same is rejected.

5. The other contention regarding the violation of policy is also unmerited for the reason that the alleged violations are not material violations so as to disclaim the liability by the Insurance Company. Therefore, this appeal is devoid of merits as it does not involve any substantial question of law and it is liable to be dismissed.

6. In the result, this Civil Miscellaneous Appeal is dismissed. The award dated 10.09.2008, in W.C.No.4 of 2006, on the file of the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Nizambad, is hereby confirmed.

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

JUSTICE M.LAXMAN

03.02.2023
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