

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.13486 OF 2006

ORDER:

The petitioner claims to be the owner of the bus bearing registration No.AP-15-U-9899. It is not in dispute that the said vehicle was hired to the A.P. State Road Transport Corporation under an agreement, which is still in subsistence. In terms of the same, the writ petitioner has been plying the vehicle on the route – Vemulavada to Basara, on hire basis. While so, on 29.5.2005, the bus met with accident, resulting in the death of one Yella Rajesham. The dependents of the deceased filed O.P.No.9 of 2006 in the Motor Accidents Claims Tribunal Karimnagar, claiming compensation at Rs.5,00,000/- from the A.P. State Road Transport Corporation. The petitioner, being the owner of the vehicle, as well as the driver of the vehicle, were also impleaded as respondents 1 and 2, apart from the Oriental Insurance Company, with which the petitioner was holding comprehensive insurance policy in respect of the bus in question. After the said accident when the petitioner claimed hire charges, the 1st respondent-Corporation vide proceedings dated 14.6.2006, informed that as per Clause V (iv) (v) & (vi) of the agreement, the petitioner alone is responsible for the claims awarded by the Motor Accidents Claims Tribunal and, therefore, the claim made in O.P.No.9 of 2006, shall be recovered from the hire charges payable to the petitioner. It was also stated that if the petitioner wants release of hire charges, he has to produce Bank Guarantee for the claim amount of Rs.5,00,000/-. The said action of the respondent-Corporation in withholding hire charges payable to the petitioner is under challenge in this writ petition.

The petitioner contends that since the vehicle in question was insured with the insurance company, and by the date of the accident a valid policy was existing, the insurance company alone is liable to pay

the compensation, if any, awarded by the competent Court. He further contends that since O.P.No.9 of 2006 is still pending, the respondents are not justified in withholding the hire charges payable to him.

I have heard the learned counsel for both the parties.

In identical circumstances, where the Corporation insisted on furnishing Bank Guarantee for issuance of clearance certificate, this Court by order dated 25.5.2006, in W.P.No.9960 of 2006, held that it would be sufficient if the owner of the vehicle is directed to furnish an undertaking to the effect that he would indemnify the respondent-Corporation from any liability arising out of the accident.

In the case on hand, the fact that under Clause V of the agreement, it was mutually agreed that the Corporation shall not be made responsible for any claim, award or orders passed by any competent authority in pursuance of statutory Labour Laws, has not been disputed by the petitioner. However, the petitioner contends that since a valid insurance policy issued by the Oriental Insurance Company was existing as on the date of the accident, the insurance company is liable to pay the compensation, if any, awarded by the Tribunal, and on that ground, hire charges cannot be withheld. Admittedly, the petitioner, as well as the insurance company, driver of the vehicle in question, are parties to the claim petition along with the respondent-Corporation, which is still pending. Since the petitioner is seeking payment of hire charges, the entitlement of which, is not in dispute, it appears that the Corporation is not justified in insisting on furnishing Bank Guarantee only on the ground that O.P.No.9 of 2006 is pending. In the circumstances, I am of the opinion that ends of justice would be met, if the petitioner is directed to submit a written undertaking before the Motor Accidents Claims Tribunal as well as the respondent-Corporation to the effect that he would indemnify the respondent-Corporation from any liability arising out of the accident which is the subject matter of O.P.No.9 of 2006.

Accordingly, the writ petition is disposed of with a direction to

the respondents to pay hire charges payable to the petitioner under the bills submitted by him without insisting on furnishing Bank Guarantee, subject to the condition that the petitioner submits a written undertaking in O.P.No.9 of 2006, pending before the Motor Accidents Claims Tribunal, Karimnagar, and also before the respondent-Corporation, to the effect that he would indemnify the respondent-Corporation from any liability arising out of the accident, which is the subject matter of O.P.No.9 of 2006, relating to the bus in question. No costs.

(G. ROHINI, J.)

31st July, 2006.

Kgr

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.13486 OF 2006

31st July, 2006.

Between:

J. Prakash Rao.

.. Petitioner.

And

The Regional Manager,
A.P.S.R.T.C., Karimnagar,
Karimnagara district and another.

.. Respondents.

