

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A.C.M.A.NO.2934 OF 2009

JUDGMENT:

This appeal arises out of the order, dated 16.01.2002 in M.V.O.P.No.65 of 2000 on the file of the Chairman, Motor Accident Claims Tribunal-cum-District Judge, Cuddapah.

2. The appellant herein is the Oriental Insurance Company Ltd., (2nd respondent in MVOP No.65 of 2000). The respondents are the claimants, who have filed a petition under Section 166 of the Motor Vehicles Act, claiming compensation on account of the death of K.Ramachandra Raju, in a motor vehicle accident that occurred on 11.09.1999.

3. The Tribunal on consideration of evidence of the witnesses, P.Ws. 1 and 2 and the documents Exs.A1 to A4 and the evidence of R.W.1 and Ex.B1, has allowed the petition in part granting compensation of Rs.2,86,000/- with interest at 9% p.a., as against the claim of the petitioners of Rs.5,00,000/-. Aggrieved by the impugned judgment, the Insurance Company is before this Court.

4. Heard the arguments of the learned counsel for the appellant and the respondents.

5. The point for consideration in this appeal is whether the interest granted by the Tribunal is excessive and whether the appellant is not liable to pay any compensation as the vehicle was hired by the deceased, which is in violation of terms and conditions of the insurance policy?.

6. Learned counsel for the appellant placing reliance on paras 11 and 12 of the order of the Tribunal submits that the Tribunal has observed that the vehicle was taken for hire as per Ex.A1-F.I.R. Therefore, the Insurance Company is not liable to pay compensation as it is in violation of terms and conditions of the insurance policy. It is further submitted that the insurance policy is a private comprehensive policy. As per the conditions of the policy, the 1st respondent must use the vehicle for his own purpose or domestic or social purposes only. If the vehicle is used for hire, the policy does not cover the risk and therefore, there is violation of conditions of policy and as such, the 2nd respondent-insurer is not liable to pay compensation.

7. On the other hand, learned counsel for the respondents submits that the interest granted by the Tribunal at 9% p.a., is just and reasonable and there is no need to reduce the same. It is further submitted that the Tribunal considered in para 12 of the order that the vehicle was used by the deceased and other persons for attending the marriage of the husband of the brother of P.W.1. Therefore, the vehicle was used for social purpose, as such, it was not given on hire by the owner of the vehicle to the deceased and others.

8. In view of finding of the Tribunal in para 12 of the order, it can be safely held that the 2nd respondent is liable to pay compensation, as there is no violation of terms and conditions of the insurance policy. In fact, there is no proof produced before the Tribunal, that the vehicle was hired. It is also pertinent to note that insurance policy was a private comprehensive policy, which cover the risk of the parties travelling in the vehicle for the purpose of domestic or social purpose. Therefore, there is no force in the contention of the

learned counsel for the appellant with regard to the violation of terms and conditions of the insurance policy.

9. On consideration of rival contentions, it is appropriate to reduce the rate of interest from 9% p.a., to 7.5% p.a., from the date of the petition till the date of realization, in view of law laid down by the apex Court in **DHARAMPAL AND OTHERS V U.P.STATE ROAD TRANSPORT CORPORATION** ¹.

10. In the result, the appeal is partly allowed reducing the interest from 9% p.a., to 7.5% p.a., from the date of the petition till the date of realization and the rest of the award shall be intact. No order as to costs. Miscellaneous petitions, if any, pending in this appeal shall stand closed.



GUDISEVA SHYAM PRASAD, J

DATED: 28-09-2018
Hsd

¹ MANU/SC/7680/2008