(2023) 03 TEL CK 0043

In the Telangana High Court

Case No : Motor Accident Civil Miscllaneous Appeal No. 2432 Of 2016

L And T Gen. Ins. Com. Ltd, APPELLANT

Vs

B Suramma 4 Others RESPONDENT

Date of Decision : 15-03-2023

Acts Referred:
Motor Vehicles Act, 1988 — Section 166

Citation : (2023) 03 TEL CK 0043

Hon'ble Judges : M.G. Priyadarsini, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

1. This appeal is preferred by L & T Insurance Company Limited, questioning the order and decree, dated 13.10.2015 passed in M.V.O.P.No.263 of 2012 on the file of the Chairman, Motor Accident Claims Tribunal-cum-I Additional District Judge, Nalgonda (for short, the Tribunal).

2. For the sake of convenience, the parties have been referred to as arrayed before the Tribunal.

3. Brief facts of the case are that the claimants filed a petition under Section 166 of the Motor Vehicles Act claiming compensation of Rs.6,00,000/- for the death of Banne Bixamaiah, husband of claimant Nos.1 & 2, father of claimant Nos.3 & 4 (hereinafter referred as ‘the deceased’) in a road traffic accident that occurred on 10.02.2012. It is stated that on the fateful day at about 03.00 p.m., while the deceased was going on his TVS XL moped bearing No.AP 07 R 3219 from Nalgonda to Panagal, when he reached near Indira Gandhi Statue, Panagal Bye pass road, Nalgonda Town, one lorry bearing No.HR 55E 6410, owned by respondent No.1, insured with respodnent No.2, being driven by its driver came in rash and negligent manner with high speed and dashed the vehicle of the deceased, as a result of which, the deceased sustained grievous injuries and died on the spot. According to the claimants, the deceased was hale and healthy,

aged 54 years and was earning Rs.10,000/- per month by doing gunny bag business. The deceased used to contribute his earnings for the welfare of his family, but due to the sudden and untimely death of the deceased, the claimants lost their bread winner, love and affection besides losing future earnings and dependency on the deceased. Therefore, the claimants have laid the claim against the respondents seeking compensation of Rs.6,00,000/- under various heads.

4. While the respondent No.1 remained ex parte, the respondent No.2, Insurance Company filed counter denying the age, income, avocation and health condition of the deceased and that the driver of the crime vehicle was not having valid driving licence at the time of the accident. Further, it is also stated that the quantum of compensation claimed is excessive, baseless and prayed to dismiss the petition.

5. Considering the claim and the counter filed by the respondent No. 2, insurance company, and on evaluation of the evidence, both oral and documentary, the learned Tribunal has partly allowed the O.P. and awarded compensation of Rs.4,45,000/- with interest at 7.5% per annum. Challenging the same, the present appeal has been filed by the Insurance Company.

6. Heard both sides and perused the record.

7. A perusal of the impugned order discloses that the Tribunal has framed issue No.1 as to whether the deceased died due to rash and negligent driving of the crime vehicle by its driver, and after considering the evidence of P.W.2 coupled with the documentary evidence i.e., Ex.A1, First Information Report and Ex.A2, charge sheet, the tribunal has categorically observed that the accident has occurred due to the rash and negligent driving of the crime vehicle i.e., Lorry by its driver and has answered the issue in favour of the claimants and against the respondents. Therefore, I see no reason to interfere with the finding of the Tribunal that the accident occurred due to the rash and negligent driving of the Lorry by its driver.

8. The main contention of the learned Standing Counsel for the appellant is that the driver of the offending vehicle was not having valid driving licence at the time of the accident and that the driving licence vide No.DL.No.RJ.14/DLC/07/509803 was issued in favour of the driver on 03.07.2007 and was valid up to 02.07.2010. Since the driving licence expired as on the date of alleged accident and as the driver was not holding valid driving licence as on the date of the accident, the Insurance Company is not liable to pay the compensation.

9. A perusal of the evidence on record establishes that the appellant tried to enlighten the Court that the driver was not holding valid driving licence as on the date of accident and that the licence, which was held by the driver was expired even before the date of accident. But in order to prove that the driver did not renew his driving licence, even after expiry of the licence hold by him, the R.T.A official was not examined. Furthermore, it is not a hard and fast rule that the

driving licence should not be renewed after its expiry period. Apart from all these, the witness admitted that the policy was in force at the time of accident. Even as per the Apex Court decision in Shamanna v. The Divisional Manager, the Oriental Insurance Company Limited and Others 2018 ACJ 2163, following its earlier decision in National Insurance Company Ltd. V. Swaran Singh and others (2004) 3 SCC 297, reiterated that “even if the driver does not possess any driving license, still the insurer is liable to pay the compensation”. In view of the above, the tribunal has rightly directed the appellant to pay the compensation amount.

10. Insofar as the quantum of compensation is concerned, the tribunal has rightly awarded just and reasonable compensation and the same needs no interference by this Court.

11. Accordingly, the M.A.C.M.A. is dismissed confirming the order and decree passed in M.V.O.P.No.263 of 2012 dated 13.10.2015, on the file of the Chairman, Motor Accident Claims Tribunal-cum-I Additional District Judge, Nalgonda. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

