(1999) 08 AP CK 0155

In the Andhra Pradesh High Court

Case No : A.A.O. No. 1363 of 1994

New India Assurance Co. Ltd. — APPELLANT

Vs

Laxmamma and Another — RESPONDENT

Date of Decision : 30-08-1999

Acts Referred:
Motor Vehicles Act, 1988 — Section 166

Citation : (2001) ACJ 175

Hon'ble Judges : Elipe Dharma Rao, J

Bench : Single Bench

Advocate : Kota Subba Rao, for the Appellant;

Final Decision : Allowed

Judgement

Elipe Dharma Rao, J.—This civil miscellaneous appeal is filed being aggrieved by the judgment and decree dated 12.2.1993 passed in O.P. No. 343 of 1991 on the file of the Motor Accidents Claims Tribunal, Mahabubnagar. The respondent No. 2, New India Assurance Co. Ltd., in the O.P., is the appellant herein.

2. The respondent No. 1 herein, filed the above O.P. before the Tribunal below u/s 166 of the Motor Vehicles Act claiming a compensation of Rs. 30,000 for the injuries received by her in the accident that occurred on 10.3.1991. She mentioned in the petition that on 10.3.1991, she along with other labourers of her village were engaged by respondent No. 1 for loading and unloading the bricks that were being transported to the house of respondent No. 1 in his tractor and trailer No. ATW 2194/AHH 2099 and at about 11.30 a.m., while they were taking the load of bricks in the trailer, the driver of the tractor drove the tractor at high speed and in rash and negligent manner and the tractor turned turtle with the trailer by the side of the road, resulting in injuries to the petitioner and other labourers, and she was shifted to Wanaparthy Hospital for treatment. It was further stated that she was 35 years old at the time of accident, and she received multiple injuries, and she sustained permanent disability to her left hand and she cannot do any work and that she was earning a sum of Rs. 25 per

day by doing labour work.

3. The Tribunal below, upon consideration of the oral and documentary evidence, held that the accident occurred due to the rash and negligent driving of the tractor/ trailer No. ATW 2194/AHH 2099 by its driver and ultimately passed an award for the amount of Rs. 21,000 with interest at the rate of 15 per cent from the date of petition till the date of realisation.

4. Aggrieved by the said order, the respondent No. 2, the insurance company has filed the present appeal, contending that the Tribunal below erred in holding that the appellant is liable to pay compensation. It is further contended that the Tribunal below failed to see that the vehicle should only be used for agricultural purpose, but in this case the vehicle was used for carrying bricks and, therefore, it is not liable to pay compensation since the policy issued does not cover such risk. Therefore, the appellant prayed to allow the appeal.

5. The evidence of RW 1 the Administrative Officer of the insurance company discloses that the tractor was registered with it for using it for agricultural purpose and the terms and conditions mentioned in the policy were violated by respondent No. 1 by using the tractor for non-agricultural purpose, i.e., for carrying bricks. Basing on the above evidence, the learned counsel for the appellant herein contended that the insurance company is not liable to pay compensation. I find much force in the contention of the learned counsel for the appellant, as the policy was issued in respect of the vehicle for using it for agricultural purpose. But in this case, the owner of the vehicle used it for carrying bricks to his house by engaging labourers and the said vehicle met with an accident, in which the petitioner sustained injuries. Therefore, the company is not liable to pay compensation, because the policy which was issued in respect of the vehicle was for using the vehicle for agricultural purpose, but it was used for the purpose other than agricultural operations.

6. It is submitted by the learned counsel for the respondent that 50 per cent of the compensation awarded by the Tribunal below was deposited by the appellant herein and the same was withdrawn by the respondent herein and, therefore, the insurance company is not entitled to recover the same. As it is held that the trailer was used for the purpose other than agricultural operation the insurance company is not liable to pay any compensation. The insurance company is at liberty to recover the compensation already deposited and withdrawn by the claimant from the owner of the vehicle.

7. Accordingly, this appeal is allowed. No costs.