

(2003) 07 AP CK 0032

In the Andhra Pradesh High Court

Case No : CMA No's. 2720, 3155 of 2001 and 2747 of 2003

New India Assurance Company Limited

APPELLANT

Vs

Putta Laxmi and Others

RESPONDENT

Date of Decision : 23-07-2003

Acts Referred:

Motor Vehicles Act, 1988 — Section 2(46), 2(47), 3

Citation : (2004) 3 ACC 525 : (2004) 1 ACC 661 : (2005) ACJ 108 : (2003) 6 ALD 123 : (2003) 6 ALT 844 : (2003) 2 AnWR 525

Hon'ble Judges : G. Yethirajulu, J

Bench : Single Bench

Advocate : M. Srinivasa Rao, for the Appellant; S. Surender Reddy, for Respondent Nos. 2 and 3 in CMA No. 2720 of 2001, for the Respondent

Final Decision : Dismissed

Judgement

G. Yethirajulu, J.—These appeals arose out of a common judgment of the Motor Accidents Claim Tribunal, Adilabad District, dated 29-11-2000, preferred by the Insurer of the accident vehicle.

2. CMA No. 2720 of 2001, pertains to the claim for the death of one person and other appeals relate to the injured.

3. The Tribunal while awarding compensation to the claimants made the appellant liable to indemnify the owner with joint and several liability. The appellant, being aggrieved by the common order of the Tribunal, preferred these appeals challenging its validity and legality. The appellant contends that though the injured and the deceased were travelling in the trailer attached to the tractor as loading and unloading coolies, the driver was having only Light Motor Vehicle driving licence and as the tractor attached with the trailer, is treated as a Heavy Motor Vehicle, it shall be held that there was no valid licence to the driver of the tractor at the time of accident.

4. The learned Counsel for the respondents submitted that the tractor is a

transport vehicle and nobody shall ply the said vehicle without proper licence but as the driver was having LMV driving licence, he is competent to drive the tractor attached with the trailer for carrying goods. He therefore, requested to dismiss the appeals as devoid of merits.

5. Section 3 of the Motor Vehicles Act reads as follows:

3. Necessity for driving licence :--(1) No person shall drive a motor vehicle in any public place unless he holds an effective driving licence issued to him authorizing him to drive the vehicle; and no person shall so drive a transport vehicle (other than a motor cab or motor cycle) hired for his own use or rented under any scheme made under Subsection (2) of Section 75) unless his driving licence specifically entitled him so to do.

6. Section 2(47) defines transport vehicle, which read as follows:

(47) "transport vehicle" means a public service vehicle, a goods carriage, an educational institution bus or a private service vehicle;

7. In *Nagashetty v. United India Insurance Company Limited and others* 2001 (6) ALD 60 (SC), the Supreme Court while considering the scope of Section 2 Clauses 46 and 47, held as follows:

The "effective driving licence" is thus for a tractor. The restriction on a learner driving the tractor when used for transporting goods shows that the policy itself contemplates that the tractor could be used for carriage of goods. The tractor by itself could not carry goods. The goods would be carried in a trailer attached to it. That is why the extra premium for trailer. The restriction placed on a person holding a learner's licence i.e., not to drive when goods are being carried is not therefore a permanent licence holder. Thus a permanent licence holder having an effective/valid licence to drive a tractor can drive even when the tractor is used for carrying goods. " When the policy itself so permits, the High Court was wrong in coming to the conclusion that a person having a valid driving licence to drive a tractor would become disqualified to drive the tractor if a trailer was attached to it.

8. In the light of the above legal position, I do not find any force in the contention of the appellants in all the appeals. Hence, the appeals must fail.

9. Accordingly, the Civil Miscellaneous Appeals are dismissed. But in the circumstances, there shall be no order as to costs.