

(2000) 2 ACC 562 : (2001) ACJ 266 : (2000) 2 ALD 620 : (2000) 2 ALT 568

Andhra Pradesh High Court

Case No: CRP No. 43 of 2000 and Batch

Oriental Insurance Co.
Ltd., Kothagudem,
Khammam

APPELLANT

Vs

Ponnam Laxmaiah and
others

RESPONDENT

Date of Decision: Feb. 8, 2000

Acts Referred:

- Motor Vehicles Act, 1988 - Section 147

Citation: (2000) 2 ACC 562 : (2001) ACJ 266 : (2000) 2 ALD 620 : (2000) 2 ALT 568

Hon'ble Judges: V. Eswaraiiah, J

Bench: Single Bench

Advocate: Mrs. A. Vyjayanthi, for the Appellant; Mr. M. Rajamalla Reddy, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

1. These two civil revision petitions and three civil miscellaneous appeals are filed by the Oriental Insurance Company Limited against the common order dated 30-12-1998 passed in Original Petition Nos. 645 to 648 and 651 of 1994 on the file of the motor accidents claims Tribunal, Khammam. The appellant is the third respondent in all the above five original petitions.

2. The brief facts of the case are that the claimants are agricultural coolies and earning Rs.35/- per day. On 27-3-1994 they were engaged by the owner of the tractor trailer bearing No.AEK 8974 and 8975 for agricultural purpose. While the claimants were so travelling in the said tractor trailer, it met with an accident due to the rash and negligent driving of the tractor by its driver, and as a result of which the tractor trailer turned turtle and one of the agricultural coolies died and four others sustained injuries. The injured agricultural coolies and the legal heirs of the deceased filed the above five original

petitions claiming compensation against the driver and owner of the tractor trailer and also the Oriental Insurance Company Limited with which the tractor trailer was insured.

3. The appellant Insurance Company has not disputed the manner in which the accident occurred and also the injuries sustained by the claimants and also the death of an agricultural coolie in that accident, but it mainly disputed the claims that the agricultural coolies are not entitled for the compensation against the insurance policy covering the third party risk. It was contended by the Insurance Company before the Court below that Ex. B1 insurance policy is an act policy and in the limitations as to use it was mentioned that the policy covers "for agricultural use only" and therefore, the Insurance Company is not liable to pay any compensation in respect of any claim arising out of the use of the motor vehicle otherwise than in accordance with the limitations. The Insurance Company further contended that transporting agricultural coolies in the tractor trailer cannot be said that the vehicle was used for agricultural purpose, and therefore, the Insurance Company is not liable to pay any compensation to the claimants.

4. The Court below recorded findings based on the oral and documentary evidence that the claimants were the agricultural coolies travelling in the tractor trailer at the time of the accident and the owner of the vehicle was taking them as agricultural coolies to attend his agricultural operations only. The Court below further held that Ex.B1 insurance policy does not prohibit the carriage of persons in the tractor trailer. The Tribunal relying upon a judgment of this Court in [Ankinapalli Yanadamma and Others Vs. G. Sreenivasulu Reddy and Another](#), , held that the Insurance Company is liable to pay compensation and accordingly awarded compensation of Rs.24,500/- in OP No.645 of 1994, Rs. 5,500/- in OP No.646 of 1994, Rs.7,000/- in OP No.647 of 1994, Rs.24,500/- in OP No.648 of 1994 to the injured claimants and Rs.98,600/- in OP No.651 of 1994 to the legal heirs of the deceased.

5. The learned Standing Counsel for the appellant relied upon a judgment of the Supreme Court in Smt. Mallawwa etc. v. Oriental Insurance Co., Ltd. 1998 (9) Sc 70, and submitted that unless the policy is covered for the gratuitous passengers or the agricultural coolies, the Insurance Company is not liable to pay any compensation and the owner of the vehicle is alone liable. The said judgment arose under the old Motor Vehicle Act (herein after referred to as "the old Act"). The Supreme Court in [New India Assurance Company Vs. Shri Satpal Singh and Others](#), , while considering Smt. Mallawwa"s case held that Section 95 of the old Act has been substantially changed in the corresponding Section 147 of the new Act and as per Section 147 of the new Act the policy should insure the liability incurred and cover injury to any person including owner of the goods or his authorised representative carried in the vehicle. The Supreme Court specifically held that under the new Act an insurance policy covering third party risk is not required to exclude gratuitous passengers in a vehicle, no matter that the vehicle is of any type or class and the Insurance Company is liable to pay compensation in respect of gratuitous passengers under the new Act. In view of the aforesaid latest judgment of the Supreme Court under the new Act, I cannot accept the contentions of the learned Standing Counsel for the

appellant.

,6. It is also contended by the learned Standing Counsel for the appellant that it is only an act policy and the Insurance Company is not liable to pay any compensation even for the six permitted agricultural coolies as there was no insurance coverage for those six persons travelled in the tractor trailer. This tractor trailer was not used for hire or reward, but it was used for the self agricultural purpose of the owner of the tractor trailer and the claimants were not carried on payment of any hire or reward, but they were only carried in the tractor trailer of the owner as agricultural coolies for the purpose of attending the agricultural operations in his field, and therefore, the contention of the learned Standing Counsel for the appellant that the act policy cannot cover the liability in respect of the claimants cannot be accepted in view of the aforesaid judgment of the Supreme Court.

7. For the aforesaid reasons, I do not find any merit in these appeals and revisions, and they are accordingly dismissed. No costs.