

(2013) 2 ALD 653

Andhra Pradesh High Court

Case No: MACMA MP No. 5331 of 2012 and MACMA No. 1474 of 2005

Bavirisetti Nagamani
and Others

APPELLANT

Vs

Guthikonda Rama
Prakash and Others

RESPONDENT

Date of Decision: Nov. 7, 2012

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 41 Rule 27

Citation: (2013) 2 ALD 653

Hon'ble Judges: K.G. Shankar, J

Bench: Single Bench

Advocate: Naram Nageswara Rao, for the Appellant; B. Devanand, for the Respondent

Final Decision: Allowed

Judgement

K.G. Shankar, J.

The claimants are the appellants. They assail the award of the learned Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, West Godavari District at Eluru (for short "the Tribunal"), whereunder their claim was dismissed on the ground that the offending vehicle was not covered by policy at the time of accident. Contending that the offending vehicle was insured at the time of accident, the claimants preferred the present appeal. The 1st respondent was the driver of the offending lorry bearing Registration No. AP-16-T-559. The 2nd respondent was the owner of the offending vehicle. The 3rd respondent was the insurer thereof. The deceased Bavirisetti Satyanarayana was the cleaner of the offending lorry when the accident occurred. The deceased met with his death in the said accident. His parents and unmarried sister claimed compensation at Rs. 2,00,000/-. The Tribunal arrived at a sum of Rs. 1,95,220/- together with interest at 9% per annum as just and reasonable compensation. However, considering that Ex.B1 policy did not cover the period of accident, the claim was dismissed.

2. Sri N. Nageshwararao, learned Counsel for the claimants submits that the civil miscellaneous petition in MACMA MP No. 5331 of 2012 under Order XLI Rule 27 CPC may be received as the claimants proposed to file copy of earlier policy to Ex.B1 as additional document.

3. I am satisfied with the grounds on which additional document is sought to be marked. Consequently, MACMA MP No. 5331 of 2012 is allowed. Copy of the policy now produced is marked as Ex.A7.

4. The accident occurred on 27.6.2002 at about 10.30 a.m. Ex.B1 policy commenced from 27.6.2002 but from 10.56 a.m. and was in force till the midnight of 19.9.2002. Thus, Ex.B1 did not cover the time at which the accident occurred.

5. However, Ex.A7-copy of policy shows that the policy was in force from 20.9.2001 till 19.9.2002. The accident occurred on 27.6.2002. The policy was thus in force by the time of accident. Consequently, the claimants are entitled to the claim as determined by the Tribunal. Accordingly, the appeal is allowed. It is found that the offending vehicle was covered by policy under Ex.A7 at the time of accident. Consequently, the respondents are jointly and severally liable to satisfy the award of Rs. 1,95,220/- together with interest at 9% per annum from the date of petition till deposit. The apportionment as awarded by the Tribunal is maintained. No costs.