

2007 PLRonline 0103

ANDHRA PRADESH HIGH COURT

Before:-Mr. N.V. Ramana, J.

United India Insurance Co. Ltd. v. Vedula Ravi

C.R.P. No. 600 of 2007.

10.10.2007.

Civil Procedure Code, 1908, Order 1, Rule 10 - Motor Vehicles Act, 1988, Sections 166 and 169 - Composite negligence - Impleadment of party - Application by the insurer for impleading the owner and the Insurance company, of the other vehicle involved in the accident - Real purpose of incorporating Sections 168 and 169 in the MV Act, is to ensure that the real dispute raised should be decided in the presence of all the parties interested in the dispute, so as to advance the cause for which it was enacted, and more so, to determine the issue involved finally in the presence of all the parties interested, without delay and expense - Application maintainable and allowed.

Held, it was appropriate that the Tribunal ought to have added the proposed respondents are proper parties to the O.P., and more so for the reason that in the event, the Tribunal after appreciating the oral and documentary evidence on record, comes to the conclusion that both the vehicles are equally responsible for the accident or the parties proposed to be added alone are responsible for the accident, then it will lead to inconclusive adjudication, in the absence of the proposed parties. [Para 5, 6]

JUDGMENT

Ramana, J. - The petitioner-2nd respondent in O.P. No. 645 of 2005 has filed this C.R.P. aggrieved by the order dated 15.12.2006, passed by the Motor Accidents Claims Tribunal-cum-Additional District Judge, Kadapa, dismissing the application in I.A. (SR) No. 11142 of 2006, filed under Order 1, Rule 10 C.P.C. seeking to implead the owner of another vehicle and its insurer, as party respondents to the O.P.

2. The learned counsel for the petitioner submitted that since the accident in question took place because of [contributory negligence](#) of lorry and van, and the police having registered the case only against the lorry insured by the petitioner, to prove contributory negligence it necessary that the owner of the van and its insurer are made parties, and therefore, the petitioner filed the present application seeking their impleadment, but the Tribunal without considering this aspect, has dismissed the application holding it as not maintainable, that there is no provision in the Motor Vehicles Act, 1988 (hereinafter referred to as 'the MV Act'), which entitles the insurer of the vehicle to file a petition seeking addition of the owner

and insurer of another vehicle as parties to the proceedings initiated by the injured, which is not correct.

3. Having heard the learned counsel for the petitioner and the learned counsel for the 3rd respondent and having perused the order under revision, the only question that arises for consideration in the C.R.P. is whether in an O.P. filed by an injured against an Insurance Company before the Motor Accidents Claims Tribunal, the Insurance Company against whom the O.P. is filed, is entitled to file an application under Order 1, Rule 10 C.P.C. seeking to implead the owner of another vehicle and its insurer, on the ground that they are necessary parties, for the accident took place because of composite negligence of two vehicles, one insured by them and another insured by the company, which is sought to be impleaded.

To answer this question, it is appropriate to look into the provisions of the MV Act.

4. The Motor Vehicles Act, 1988 is a beneficial legislation. The provisions of Chapter X to XII thereof seek to safeguard the interests of the victims in road accidents. As per Section 168 of the MV Act, the Tribunal may make an award determining the amount of compensation, which appears to it to be just, by specifying the person or persons to whom compensation shall be paid. While making the award, the Tribunal shall specify the amount, which shall be paid by the insurer or owner or driver of the vehicle involved in the accident or by all or any of them, as the case may be. The language employed in Section 169 of the MV Act would make it clear that the Tribunal shall have all the powers of a Civil Court, not only for the purpose of taking evidence, oath, attendance of witnesses, summoning the documents, material objects "for such other purpose as may be prescribed", but it has also ample power and jurisdiction to implead any parties whose presence is necessary to enable the Tribunal to effectively and completely adjudicate upon and settle all the questions involved in the lis, pending before it for adjudication. Before proceeding to add a party to the lis before it, the Tribunal/Court has to satisfy for itself whether the presence of the party sought to be added, is necessary for proper adjudication and determination of the matter before it, in an effective manner.

5. The parties to the proceedings may be either necessary parties or proper parties. The necessary party is one in whose absence no effective order can be passed granting the reliefs prayed. In the instant case, though the injured-claimant filed the O.P. adding the necessary parties stating that the lorry owned by the 1st respondent, which is insured with the 2nd respondent is responsible for the accident, the fact remains, it is the case of the petitioner-2nd respondent (insurer) that since the accident took place because of composite negligence of another vehicle, it is appropriate that the owner of the said vehicle and its insurer are also made parties to the O.P., and so contending it filed the present application. When such is the case of the petitioner-2nd respondent in the O.P., it was appropriate that the Tribunal ought to have added the proposed respondents are proper parties to the O.P., and more so for the reason that in the event, the Tribunal after appreciating the oral and documentary evidence on record, comes to the conclusion that both the vehicles are equally responsible for the accident or the parties proposed to be added alone are responsible for the accident, then it will lead to inconclusive adjudication, in the absence of

the proposed parties.

6. The Tribunal while considering the present application failed to take note of the provisions of the MV Act. While deciding the present application, it was just and necessary for the Tribunal to look into the facts of the case and consider the question – Whether in the interest of justice, the application filed by the petitioner-2nd respondent, was required to be allowed or not. However, the Tribunal without considering this question, based on mere technicalities, rejected the same. Having regard to the language employed in Section 169(2) of the MV Act, namely “for such purpose as may be prescribed”, I am of the considered opinion that the provisions of Order 1, Rule 10 Civil Procedure Code are applicable to the proceedings before the Tribunal under the MV Act. Further upon perusal of the various provisions of the MV Act and upon consider its object, it would become clear that the real purpose of incorporating Sections 168 and 169 in the MV Act, is to ensure that the real dispute raised in the O.P. should be decided in the presence of all the parties interested in the dispute, so as to advance the cause for which it was enacted, and more so, to determine the issue involved finally in the presence of all the parties interested, without delay and expense.

7. In view of the above provisions, the order passed by the Tribunal on the fact of it, is erroneous and is liable to be set aside. Hence, the C.R.P. is allowed, and the order under revision, passed by the Tribunal, is set aside. The petitioner-2nd respondent, shall add the proposed parties to the O.P. No costs.