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HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

MACMA No.415 of 2013

JUDGMENT::

This appeal is filed by the insurance company against the order dated 05-10-2005 passed in OP No.201 of 2000 by the Motor Accident Claims Tribunal-cum-VI Addl. District Judge (FTC), Nizamabad at Kamareddy, wherein the Tribunal, as against the claim of Rs.1,00,000/-, granted compensation of Rs.68,000/- towards the injuries sustained by the 1st respondent-claimant in the motor accident that occurred on 14-12-1999.

2. Facts stated are:-The claimant on the fateful day at about 7-00 pm was travelling in auto bearing registration no.AP 25T 6339 from Boargaom to Nizamabad side along with other passengers and when the auto reached near outskirts of Boargaom village, the driver of the auto drove it in a rash and negligent manner with high speed and gave dash to a motor cycle, due to the impact of the same, turned turtle, due to which the claimant received fracture injuries.

3. Learned counsel for the appellant-insurance company contended that though the driver of the auto in question, in which the claimant was travelling, was not supposed to drive any passenger motor vehicle without APPSV driver's badge and thus violated the conditions

of driving licence, insurance company is not liable and respondent no.2-owner of the auto in question alone is responsible to pay the compensation to the claimant. On the other hand, learned counsel for claimant-respondent no.1 contended that though the driver of the auto in question was not having APPSV driver's badge, it was only a violation of policy condition but the auto in question is covered by a valid policy. Learned counsel further contended that by applying the principle laid down by the Supreme Court in *NATIONAL INSURANCE COMPANY LIMITED vs. SWARAN SINGH* (2004 ACJ

1) the insurance has to pay the compensation to the claimant and recover from the owner of the auto in question. Learned counsel also submitted that the compensation awarded by the Tribunal is very low and is not commensurate with the injuries sustained by the claimant.

4. There is no dispute as to the date and nature of the accident and the fact that the claimant sustained injuries in the said accident. The only dispute is with regard to the quantum of compensation and the liability of the insurance company to pay the compensation.

5. To prove his claim, the claimant himself filed affidavit in lieu of examination as PW-1. Ex.A-3 is the injury certificate wherein the claimant is shown to have sustained one grievous injury, which is fracture to right ankle, lacerated wound over heel aspect depth 1" x 1/2",

abrasion on leg lateral aspect and abrasion of right hand palm. These injuries sustained by the claimant were certified by the doctor who treated the claimant and examined as PW-2. Ex.A-4 is the disability certificate issued by PW-2 doctor. Exs.A-3 and A-4, coupled with the evidence of PWs.1 and 2 prove that the claimant sustained injuries. The Tribunal granted Rs.20,000/- towards grievance injuries, Rs.9,000/- towards simple injuries, Rs.27,000/- towards medical bills which are covered by Exs.A-6 and A-8 and Rs.12,000/- towards loss of earnings, totalling to Rs.68,000/-. The compensation granted by the Tribunal is based on acceptable evidence and the same warrants any interference. So far the question of liability to pay the compensation is concerned, in the light of the decision in *Swaran Singh's* case supra, the appellant-insurance company is liable to pay the compensation to the claimant and recover from the owner of the auto in question in the view of the fact that auto in question is covered by valid policy. However, the rate of interest granted by the Tribunal at 9% per annum is reduced to 7.5% per annum.

6. In the result, the appeal is disposed of and the order of the Tribunal is modified to the extent indicate above. Miscellaneous petitions, if any pending in this case shall also stand disposed of. There shall be no

order as to costs.

REDDY, J

A. RAJASHEKER

Dated: 30th December, 2015

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DATED 30-12-2015