THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A.No.2710 OF 2005

JUDGMENT:

The instant appeal is preferred by respondent No.2 – United India Insurance Company in O.P.No.1102 of 2001 on the file of Chairman, Motor Accidents Claims Tribunal – cum – Principal District Judge, Ranga Reddy District, aggrieved by the order and decree, dated 29.03.2004, whereby and whereunder, a sum of Rs.3,42,266/- with interest at 9% per annum thereon was granted as compensation, as against the claim of Rs.4,50,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'), on the ground that the amount awarded was excessive.

2. The appellant is respondent No.2, whereas respondent Nos.1 to 3 are the petitioners, respondent No.4 is respondent No.1 and respondent Nos.5 and 6 are respondent Nos.3 and 4 in the O.P. before the Tribunal.

3. For the sake of convenience, the parties are hereinafter referred to as they were arrayed in the O.P. before the Tribunal.

4. The facts in brief are that, on 09.09.2001, one M.A. Aleem was proceeding on his Hero Honda Splender bearing Registration No.AP-28-M-4283 and when he reached near S.B.Wines Shop, Narsingi, at about 05:15

PM, a lorry bearing Registration No.AP-13-T-4418 proceeding in the same direction in front of Hero Honda driven in a rash and negligent manner at high speed dashed a Jeep coming in opposite direction, due to which, the jeep turned upside down and dashed the Hero Honda resulting in deceased falling on the road and sustaining injuries and when he was shifted to Osmania General Hospital, Hyderabad, he was declared dead. The petitioners being mother, wife and son of the deceased, respectively, sought a sum of Rs.4,50,000/- as compensation under Section 166 of the Act against the owners and insurers of the lorry and jeep, respectively, who are respondent Nos.1 to 4.

5. Respondent No.3 remained *ex parte*. The other three respondents filed their respective counters opposing the claim by raising several pleas in the direction of seeking exemption from the liability.

6. Based on the said pleadings, in the direction of accounting for responsibility about the accident, the Tribunal framed three issues. During enquiry, petitioner No.2 examined herself as PW.1 besides examining PWs.2 and 3 and marked Exs.A1 to A7 to substantiate the claim laid. On behalf of the contesting respondents, an official from respondent No.4 local branch was examined as RW.1 and marked Exs.B1 and B2, copies of Insurance Policies.

7. The Tribunal, after elaborately discussing the evidence on record, has recorded a finding that due to rash and negligent driving of the lorry driver the accident had occurred and accordingly, answered issue No.1.

8. On issue No.2, taking the age of the deceased as 30 years and monthly earnings at Rs.2,500/- as against Rs.3,000/- claimed by the petitioners, after deducting 1/3rd therefrom towards personal expenses of the deceased, by applying multiplier '16.51', awarded Rs.3,30,366/- towards loss of dependency to the family besides awarding Rs.10,000/- towards consortium and Rs.2,000/- towards funeral expenses and thus, totalling to Rs.3,42,266/- with interest at 9% per annum thereon. The Tribunal has also apportioned the amount awarded against petitioner Nos.1 to 3.

9. It is the aforesaid order which is under challenge in the instant appeal on the ground that the Tribunal without there being legally acceptable evidence has taken monthly income of the deceased at Rs.2,500/- instead of Rs.15,000/- notional income as per second schedule to Section 163-A of the Act and that the Tribunal ought not to have applied multiplier '16.51' basing on the table in the second schedule to Section 163-A of the Act.

10. Heard Sri A.V.K.S.Prasad, learned counsel for

the appellant. No representation for the respondents.

11. The appeal was dismissed against respondent Nos.1 and 4 by order, dated 05.01.2012, which dismissal would not make any difference in adjudicating upon the controversy herein.

12. Learned counsel for the appellant fairly submits that in view of the recent decisional law, award of Rs.3,42,266/- as compensation cannot be viewed as excessive, but however, it is his submission that the rate of interest may be reduced from 9% per annum to 7.5% per annum in view of the decision of the Honourable Supreme Court in **Rajesh and others v. Rajbir Singh and others**[1].

13. As seen from the order under challenge, it is clear that the Tribunal has not awarded any amount towards future prospects and even the multiplier applicable is '17' in view of the decision of the Honourable Supreme Court in **Sarla Verma v. Delhi Transport Corporation**[2]. Therefore, while confirming the amount of Rs.3,42,266/- awarded by the Tribunal as compensation, the rate of interest at 9% per annum granted by the Tribunal on the amount awarded is reduced to 7.5% per annum in view of the decision of the Honourable Supreme Court in **Rajesh's case (supra 1)**.

14. Thus, the appeal is partly allowed to the extent of reducing the rate of interest. There shall be no order as to costs.

15. As a sequel thereto, Miscellaneous Applications, if any, pending in this appeal shall stand disposed of.

A. SHANKAR NARAYANA, J

December 28, 2015.
MD

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

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December 28, 2015

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[1] (2013) 9 SCC 54

[2]. 2009 (3) ALD 83 (SC)