

HON'BLE SRI JUSTICE A. SHANKAR

NARAYANA

M.A.C.M.A. No.697 OF 2005

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JUDGMENT:

2nd respondent – M/s New India Assurance Company Limited in O.P. No.164 of 2000 is the present appellant. Aggrieved of the order, dated 14-06-2004, in O.P. No.164 of 2000, passed by the learned Chairman, Motor Accidents Claims Tribunal – cum – II Additional District Judge, West Godavari District at Eluru (for short 'the Tribunal'), whereby and whereunder, a sum of Rs.3,00,000/- (Rupees three lakhs only) as claimed under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'), was granted with interest at 9% per annum thereon against respondent Nos.1 and 2, who are owner and insurer of lorry bearing registration No.AP

A 5338, fastening joint and several liability.

2. The appellant herein is the 2nd respondent - insurer in the O.P. before the Tribunal, while respondent No.1 is the petitioner and respondent No.2 – insured is respondent No.1.

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

4. Only ground urged is that the Tribunal having recorded a definite finding that the petitioner is entitled to claim compensation under Section 163-A of the Act on issue No.2, still, granting a sum of Rs.40,000/- towards pain and suffering, despite the statutory limit being is Rs.5,000/- as provided in the Schedule appended to

Section 163-A of the Act, and granting Rs.45,899.05 paise as against the amount of Rs.15,000/- provided by the Schedule towards medical expenses can not be substantiated.

5. This has been the main grievance in the instant appeal. The facts are not in dispute. Even, the finding tendered on issue No.1 is also not in dispute. Further, the finding recorded by the Tribunal taking up the claim under Section 163-A of the Act pursuant to the decision in **M/s United India Insurance Co.Ltd. & others v. Kore Laxmi & others**^[1] referred to in the order under challenge, granting the amounts is also not in dispute.

6. Therefore, the short question that arises for consideration in the instant appeal is,

whether the Tribunal was right in granting Rs.40,000/- towards pain and suffering exceeding the limit of Rs.5,000/- provided by the Schedule, and so also Rs.45,899.05 paise towards medical expenses which exceeds the amount of Rs.15,000/- provided by the Schedule to Section 163-A of the Act?

7. Since the finding recorded by the Tribunal that the claim was dealt under section 163-A of the Act, though, originally, the claim was laid under Section 166 of the Act, is not challenged by the petitioner, certainly, the amount of Rs.40,000/- granted towards pain and suffering requires reduction and, accordingly, the same is reduced to Rs.5,000/-. Like-wise, the amount of Rs.45,899.05 paise granted by the Tribunal towards medical

expenses is reduced to Rs.15,000/-. Except to that extent, the order is maintained in all other aspects. Consequently, the compensation of Rs.3,00,000/- awarded by the Tribunal is reduced to 2,34,101/-, rounding it off to Rs.2,34,100/- (Rupees two lakhs thirty four thousand one hundred only).

8. Accordingly, the appeal is allowed in part to the extent indicated above. However, there shall be no order as to costs.

9. As a sequel thereto, miscellaneous applications, if any, pending in the appeal, stand disposed of.

A. SHANKAR NARAYANA, J

February 25, 2015.
Mgr

[\[1\]](#). [2003 (3) L.S. 313 (DB)]