

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

MACMA No. 817 of 2005

Judgment:

The third respondent – Oriental Insurance Company Limited is the present appellant. Aggrieved by the order, dated 15.10.2001, in MVOP No.71 of 1998 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-V Additional District Judge, Vijayawada, the instant appeal is preferred. The Tribunal by the said order granted a sum of Rs.43,000/- with interest at 9% p.a., as against the claim of Rs.75,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'), for the injuries sustained by the petitioner.

2. For the sake of convenience, the parties hereinafter referred to as arrayed in the Original Petition before the Tribunal.

3. The facts, in brief, are that on 03.12.1994 at about 4.30 AM, the first respondent who was driver of Mini Van bearing registration No.AP-7U-7118 driven it in a rash and negligent manner on National Highway-5 from Ramvarappadu ring centre side towards Benz Circle and when it reached Sri Chaitanya Mahila Kalasala, Sri Nagar Colony, Vijayawada, he overtook a Car proceeding ahead in the same direction, went extreme right side and the dashed front right portion of lorry bearing registration No.AIK-3105 coming in opposite direction, as a result, the Van turned across the road and the front portion of the Van completely damaged and the petitioner sustained injuries and he was shifted to University General Hospital, Vijayawada. A case was also registered against the driver of the vehicle under Section 304-A IPC. The petitioner, claiming that he was aged 31 years earning Rs.2500/- per month on prawn culture business and that he was operated in Guntur Dental Speciality Hospital and spent Rs.25,000/- towards

medical expenses, requested to grant Rs.75,000/- from the respondents 1 to 3 who are driver, owner and insurer respectively.

4. Respondents 1 to 3 filed their respective written statements opposing the claim raising various pleas.

5. The Tribunal framed three issues in order to fix the responsibility about the accident. During enquiry, the petitioner examined himself as PW.1 and marked Exs.A1 to A5. On behalf of the Insurance Company one K. Sabitadevi was examined as RW.1 and marked Exs.B1 to B11 to substantiate that the driver did not possess valid driving license at the relevant time.

6. The Tribunal, on appraisal of evidence on record, held issue No.1 in favour of the petitioner and the Tribunal also discussed the violation complained, but did not agree with the case of the Insurance Company. On issue No.2, the Tribunal granted Rs.25,000/- for the grievous injury, Rs.8,000/- for four simple injuries and Rs.10,000/- towards pain and suffering, opining that it was just and proper compensation. Thus, the petitioner was entitled to Rs.43,000/-.

7. The aforesaid order is under challenge in the instant appeal contending in the grounds of appeal that, the Tribunal did not properly evaluate the evidence and, somehow, went wrong in holding the plea of the Insurance Company that the driver was not possessing valid driving license against it. Even on quantum of compensation, it is contended that excessive compensation was awarded by the Tribunal.

8. Heard Sri Bathula Venkateswara Rao, learned counsel for the appellant – Insurance Company. The claim against the third respondent was dismissed for default on 03.01.2012. None appears for the second respondent despite service of notice. No representation for the first respondent.

9. Perused the order and evidence on record. As seen from the evidence on record, the Insurance Company just examined one K. Sabitadevi as RW.1, which, certainly, would not substantiate the plea taken by the Insurance Company that the driver did not possess valid driving license at the relevant time. Therefore, that finding recorded by the Tribunal cannot be faulted with. Even there is no need to probe into once again the evidence on record for reappraisal.

10. Turning to the compensation awarded by the Tribunal, Ex.A3 – Wound Certificate would make it abundantly clear that the petitioner sustained one grievous injury which was fracture of lower right jaw bone and the Tribunal granted Rs.25,000/- for grievous injury. Though, it did not discuss various heads, but, still the amount of Rs.25,000/- granted by the Tribunal is just and reasonable and so far as the simple injuries are concerned, the amount of Rs.8,000/- granted by the Tribunal also is just and reasonable and the amount of Rs.10,000/- granted towards pain and suffering also cannot be disturbed. Therefore, the amount determined by the Tribunal is just and adequate when kept in view, the injuries and sufferance he has undergone. Further, concerning the interest, it is reduced to 7.5% p.a., as per the decision of the Hon'ble Apex Court in **Rajesh and others v. Rajbir Singh and others**^[1].

11. Accordingly, the appeal is allowed in part reducing the interest from 9% p.a., to 7.5% p.a., maintaining the order in all other respects as indicated above. There shall be no order as to costs.

12. As a sequel thereto, Miscellaneous Applications, if any, pending in this appeal shall stand closed.

A. SHANKAR NARAYANA, J

Date: 13.03.2015

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[\[1\]](#) 2013 ACJ 1403 = 2013(4) ALT 35