

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA No.1513 OF 2011

JUDGMENT:

The claimant-petitioner in M.V.O.P.No.473 of 2009 on the file of the Chairman, Motor Accidents Claims Tribunal—cum-X Addl. District & Sessions Judge(Fast Track Court), Visakhapatnam at Anakapalle (for short, 'the Tribunal') maintained the claim under Section 166 of the Motor Vehicle Act,1988 (*for short, 'the Act'*), against owner and Insurer of the crime vehicle i.e. motor cycle bearing No.AP 33 A 0096 for the claim of Rs.1,50,000/-(Rupees one lakh fifty thousand only) for the injuries sustained by him in the accident dated 28.11.2005, aggrieved by the award dated 20.04.2011 passed by the tribunal granting compensation of Rs.82,580/- with interest at 7.5% p.a. by fixing liability against the 1st respondent-Owner of the crime vehicle only by exonerating the 2nd respondent-Insurer basing on the evidence of R.W.1- employee of the Insurer who deposed that the rider of the motor cycle got only learners license and no valid or regular license; preferred the appeal with the contentions in the grounds of appeal as well as during the course of hearing that compensation granted is utterly low and also exonerating the insurer from liability on the ground that the driver was not having valid and subsisting driving license even though the policy is in force, that the tribunal erred in not considering the evidence of P.W.2 Medical Officer who deposed that two to three months period will be required for recovery as the claimant suffered 20% permanent disability as a consequence of grievous injuries, that the tribunal not reasonably granted amounts under other conventional heads, hence to grant compensation as prayed for by setting aside the award of the tribunal.

2. Whereas, it is the contention of the learned counsel for the Insurer, from the 1st respondent-owner of the crime vehicle served failed to attend, that the tribunal is right in exonerating the Insurer for

the rider of the motor cycle has no valid driving license but only a learner's license with which he cannot ride on the road, that too, without assistance of a person acquainted with the riding even as per the Act and thereby there is nothing to interfere with the exoneration of Insurer including quantum and perused the material on record.

3. The Apex Court in **NIC Vs. Swaran Singh**^[1] particularly at paras-80 and 81 categorically observed that learner's licence is a valid driving licence thereby once the policy covers the risk merely because any assistance of the person acquainted with the riding not taken is if at all not a ground either to exoneration or to order for pay and recover. Hence, the exoneration of the Insurer by the tribunal is unsustainable. Now coming to the quantum, the tribunal is right in not taking permanent disability of 20% and in fact, what the compensation of Rs.82,580/- awarded by the tribunal is no way utterly low and as such there is nothing to enhance compensation.

4. In the result, the appeal is partly allowed while confirming the compensation however, by setting aside the award of the tribunal to the extent of exonerating the Insurer from liability and fixing joint liability against both the respondents. Rest of the award holds good. There is no order as to costs. Consequently, miscellaneous petitions, if any, pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 28.12.2015
Vvr

^[1] (2004) 3 SCC 297=2004-ACJ-1