HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A.No.155 of 2010

JUDGMENT:

The 2nd respondent-insurer among two respondents including owner of the lorry bearing No.DL IL 3746, maintained the appeal impugning the award of the tribunal dated 27.11.1998 in O.P.No.894 of 1994, out of the claim under Section 166 of the Motor Vehicles Act (for short 'the Act') for Rs.2,50,000/- awarded with joint liability against the owner to indemnify for Rs.2,50,000/- as prayed for with interest at 12% p.a.

2. Heard and perused the material on record.

3. The appeal is filed with several contentions, mainly of driver has no valid driving license and got only light motor vehicle license; that vehicle in question is transport vehicle lorry and rate of interest is also exorbitant. The other contentions have no basis insofar as the claim concerned as irrespective of the two wives and the children, who are entitled it is *interse* and not for the insurer or the owner, for distribution and even otherwise, who are the dependants among them to be taken into consideration and the tribunal given 1/4th deduction more than three including one minor and two major unmarried daughters and two wives, no way requires interference.

4. Now coming to the driving license, even the tribunal concluded by referring to Section 2(21) of the Act, that the capacity of the vehicle is 6 tons and it is a light motor goods vehicle upto 7.5 tons and once there is a valid driving license there from as concluded there is nothing even to exonerate the insurer from the liability or even to order pay and recovery.

5. Now coming to the other crucial contention of the rate of interest, as per the expression of the Apex Court in Rajesh Vs. Ranbir Singh[1] and TN Transport Corporation v. Raja Priya[2], the rate of interest at 7.5% p.a. is reasonable and thereby reducing rate of interest from 12%p.a. to 7.5%p.a..

6. Accordingly and in the result, the appeal is partly allowed while confirming the quantum of compensation, however, by reducing the rate of interest from 12%p.a. to 7.5% p.a. from the date of claim petition till realisation. There is no order as to costs.

7. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

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Dr. B. SIVA SANKARA RAO, J

Date:20.10.2016
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[1] **2013 ACJ 1403**
[2] (2005) 6 SCC 236