

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

MACMA.No.393 of 2009

JUDGMENT:

The present appeal is preferred by the petitioner in O.P.No.540 of 1998 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-District Judge, Anantapur (for short, 'the Tribunal') aggrieved by the award and decree dated 23.02.2004 passed in the said original petition granting compensation of Rs.70,000/- towards damages to the jeep bearing registration No. AP 02 C 3690, as against the claim of Rs.3,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988.

2. The appellant is the petitioner, who is the owner of the said jeep, while respondent Nos.1 to 4, who are the owners of both the vehicles i.e., lorry bearing registration No. AAQ 1185 and scooter bearing registration No. AP-02-C-9436 and the respective insurers, were respondent Nos.1 to 4 in the Original Petition.

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

4. Since the fact-situation is not disputed by the contesting respondent i.e., respondent No.2 – insurer of the lorry, as the liability was fastened on respondent Nos.1 and

2, but not on respondent Nos.3 and 4, it is not necessary to refer to the facts and the details of damage to the vehicle.

5. The Tribunal, basing on the pleadings of the parties, framed three issues.

6. During enquiry, the petitioner examined himself as P.W.1, besides examining two more witnesses as P.Ws.2 and 3, and marked Exs.A1 to A5. On behalf of the respondents, R.Ws.1 and 2 were examined and Exs.B1 to B3 were marked.

7. The Tribunal, having dealt with the report of the Surveyor marked as Ex.B3, wherein the Surveyor assessed the cost of parts and the service charges for repairs at Rs.1,08,000/-, observed that the amount assessed under Ex.B3 or the amount claimed under Exs.A4 and A5 by the petitioner is not reasonable and proper and fixed the damages to the jeep at Rs.70,000/-. However, there appears to be no proper reasoning in discarding the amount of Rs.1,08,000/- assessed by the Surveyor under Ex.B3. That being so, the Tribunal ought to have at least granted the amount mentioned therein, if not the amounts mentioned in Exs.A4 and A5 and spoken to by P.W.3, who had issued them. In fact, as could be seen from Ex.B3, the report of the Surveyor is dated 12.06.1997 and precedes the bill issued under Ex.A5. In such an event, certainly, the amount of Rs.1,08,000/- assessed by the Surveyor under Ex.B3 ought

to have been granted by the Tribunal. Therefore, the petitioner is entitled to a sum of Rs.1,08,000/- as against Rs.70,000/- granted by the Tribunal towards damages to the jeep.

8. So far as the rate of interest is concerned, the Tribunal granted interest at 9% per annum and the same is maintained on the amount of Rs.70,000/- granted by it, but on the enhanced amount, interest at 7.5% per annum is granted from the date of petition till realisation as per the decision of the Hon'ble Apex Court in **Rajesh and others v. Rajbir Singh and others**^[1].

9. Accordingly, the instant appeal is allowed in part modifying the order passed by the Tribunal, by enhancing the compensation, as indicated above, and confirming the same in all other respects. There shall be no order as to costs.

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

**JUSTICE A.SHANKAR
NARAYANA**

26.07.2016
v v

^[1] 2013 ACJ 1403

