

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. Nos.2019 & 2040 OF 2009 AND 2161 OF 2008

COMMON JUDGMENT:

All these three appeals are preferred by respondent No.7 - M/s. New India Assurance Company Limited in O.P. Nos.600, 602 and 601 of 2000, on the file of the Chairman, Motor Accident Claims Tribunal - cum - IV Additional District and Sessions Judge (FTC), Mahabubnagar (for short 'the Tribunal'), aggrieved over the orders and decrees, dated 13-08-2007, passed by the Tribunal in the said OPs., granting Rs.55,000/- as against the claim of Rs.1,50,000/-; Rs.65,000/- as against the claim of Rs.1,50,000/- and Rs.30,000/- as against the claim of Rs.75,000/- respectively, on the main ground that the owner-cum-driver of auto-rickshaw, which was involved in the accident causing injuries to the inmates of the auto-rickshaw, did not possess valid and effective driving license on the date of the accident.

2. Heard Sri T. Ramulu, learned Standing Counsel for the appellant - respondent No.7, and Sri M. Madhava Reddy, learned counsel for the petitioner - respondent No.1 - injured in each of these cases.

3. All the claim petitions relate to one and the same accident, and the facts are not in dispute. The only controversy relates to absence of effective driving license on the date of the accident being possessed by the driver of the auto-rickshaw, who is also the owner of

it, of course, who is no more, and his legal representatives have come on record as respondent Nos.2 to 6 before the Tribunal.

4. Though, initially, the learned standing counsel for the appellant contended that the Tribunal has not discussed anything about Ex.B-1, driving license, filed by the Insurance Company through its officials examined as RW.1, but, however, having seen the discussion at page No.4 of the order, of course, would submit that the valid driving license since not possessed by the driver of the auto-rickshaw at the relevant time, only order that could have been passed by the Tribunal was to direct the Insurance Company to initially pay the compensation awarded and permit to recover the same from the owner of the vehicle in view of the law declared by the Hon'ble Supreme Court in **National Insurance Co. Ltd. v. Swaran Singh and Others**¹; to that extent, he makes a submission to modify the orders and decrees passed by the Tribunal in all these three matters.

5. Sri M. Madhava Reddy, learned counsel for the petitioner - respondent No.1, expresses no objection for making such an observation and giving such direction in view of the law declared by the Hon'ble Supreme Court is so.

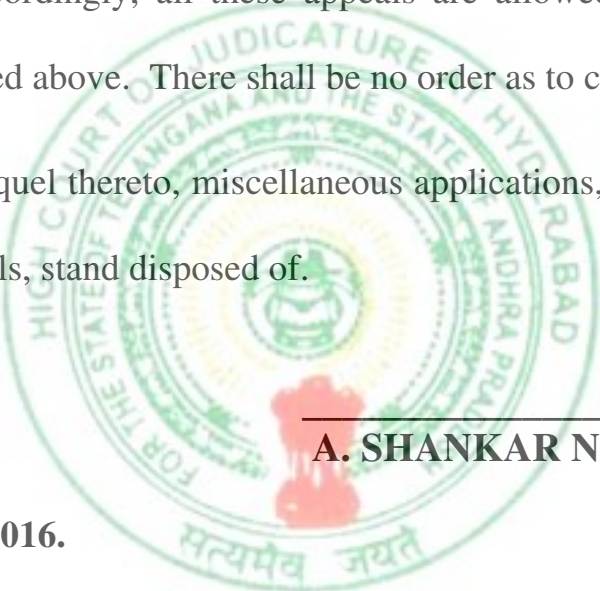
6. Having regard to the submissions made by both the learned counsel, the orders and decrees under challenge in these three appeals, are modified removing the joint and several liability fastened on the

¹. AIR 2004 SC 1531

Insurance Company - respondent No.7 in the OPs, and directing to deposit initially the compensation amounts awarded by the Tribunal in all the three claim petitions and recover the same from the owner of the vehicle, whose legal representatives are respondent Nos.2 to 6, for the reason that the driver was holding and possessing license to drive the Light Motor Vehicle (Non-Transport), which is an admitted fact as could be found from Ex.B-1.

7. Accordingly, all these appeals are allowed in part to the extent indicated above. There shall be no order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in these appeals, stand disposed of.



A. SHANKAR NARAYANA, J

October 21, 2016.

Mgr