

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A No.3983 OF 2008

JUDGMENT:

The 2nd respondent—insurer among two respondents including the owner of the jeep bearing No.AP 03 D0639, in M.V.O.P. No.158 of 2005 on the file of Motor Accidents Claims Tribunal-cum-IV Additional District Judge, Tirupathi, (for short ‘the Tribunal’) which was maintained by injured claimant, under Section 166 of Motor Vehicles Act, 1988 (for short ‘the Act’) for a compensation of Rs.1,00,000/- for the injuries sustained in the accident occurred on 30.05.2003 whereunder the Tribunal awarded an amount of Rs.46,720/- with interest at 7.5% per annum fixing joint liability against respondents 1 and 2 vide award dated 01.10.2007. It is, impugning the same, the 2nd respondent—insurance company preferred the appeal.

2) Heard learned standing counsel for appellant and learned counsel for claimant. Respondent No.2—owner of the vehicle herein remained exparte before the Tribunal even impleaded in this appeal is no way fatal to the maintainability of the appeal vide **Meka Chakra Rao vs Yelubandi Babu Rao**¹. Perused the material on record.

3) It is the contention of the learned standing counsel for appellant that the Tribunal failed to consider the factum of the policy not covered the risk of inmates of the vehicle and thereby, fastening the liability is unsustainable and apart from the same, the compensation awarded is excessive.

4) Whereas it is the submission of the learned counsel for respondent No.1/ claimant that the award of the Tribunal holds good, for this Court while sitting in appeal there is nothing to interfere but for

¹ 2001 (1) ALT 495 DB

no objections to enhance the compensation and prayed to dismiss the appeal.

5) A perusal of the Ex.B1—policy shows that it is a standard package policy as mentioned as B package. It is covered by IRDA regulations dated 16.11.2009 and also the expression of the Apex Court in ***National Insurance Company Limited vs Balakrishnan***² that once the policy is a standard package policy, the risk of the inmates of the vehicle is covered to indemnify. Thus, the said contention of the insurer is unsustainable on its face. Ex.A4—disability certificate with reference to Ex.A3—wound certificate show that the injured sustained three injuries, of which one is simple injury and the other two injuries are grievous. The grievous injury is a fracture of 1/3rd of shaft of fibula and what the compensation awarded by the Tribunal is of Rs.46,720/- with interest at 7.5% per annum is no way excessive.

6) Accordingly and in the result, the appeal is dismissed confirming award passed by the Tribunal. No order as to costs.

7) Consequently, Miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.31.08.2016
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² 2013 ACJ 199

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Date:31.08.2016

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