

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.3641 OF 2009

JUDGMENT:

The present Civil Miscellaneous Appeal under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act') is preferred by respondent No.4 - The New India Assurance Company Limited, Chittoor Branch, which is insurer of the Jeep bearing No.TN-39-C-7718 that involved in the accident, mainly on the ground that, though, there was no contributory negligence on the part of the driver of the Jeep, the Tribunal went wrong in recording a finding that there was contributory negligence on the part of the driver of the Jeep along with driver of the Maruthi Van bearing No.AP-16-H-5625 in occasioning the accident, and, therefore, sought to set aside that finding and its liability, fixed at the ratio of 50% each.

2. Heard Sri C.V. Rajeeva Reddy, learned counsel for the appellant (insurer), Smt. Pushpinder Kaur, learned counsel for respondent No.3 - M/s. Oriental Insurance Company Limited, admittedly, insurer of the Maruti Car which is also involved in the accident, and Sri T.C. Krishnan, learned counsel for respondent No.1 (petitioner - claimant).

3. Perused the order and the decree under challenge and the evidence on record.

4. The Tribunal, in paragraph No.8, while dealing with issue Nos.1 to 3, has elaborately dealt with the issue in adjudicating as to on account of whose negligence the accident had taken place, appreciating the evidence of PW.1, who, in fact, asserted in her chief-examination itself that on account of rash and negligent driving of the drivers of both the vehicles, the accident had taken place, and also taking the aid of the documentary evidence under Exs.A-1 and A-2, concluded that due to rash and negligent driving of the drivers of both the vehicles, the accident has occurred resulting in injuries to the petitioner - respondent No.1.

5. The Tribunal, for the injuries sustained by the petitioner, awarded a total amount Rs.30,000/- towards compensation with interest at 9% per annum

6. Though, learned counsel for the appellant initially insisted on the liability fastened on the Jeep driver, however, confined her arguments to the rate of interest awarded by the Tribunal. In fact, the finding recorded by the Tribunal is well reasoned, based on appreciation of evidence on record, both oral and documentary as stated in the above and the same, certainly, does not warrant interference as nothing is shown that it is patently perverse.

7. Turning to the contention as to the rate of interest awarded by the Tribunal at 9% per annum, the same is reduced to 7.5% per annum, in view of the decision of the Hon'ble Supreme Court in

Rajesh and others v. Rajbir Singh and others¹, from the date of petition till realization.

8. Accordingly, the Civil Miscellaneous Appeal is allowed in part modifying the order under challenge by reducing the rate of interest alone as indicated above, while confirming the same in all other aspects. There shall be no order as to costs.

9. As a sequel thereto, Miscellaneous Applications, if any, pending in the appeal stand disposed of.

November 4, 2016.

PV

A. SHANKAR NARAYANA, J

1. 2013ACJ1403 = 2013(4)ALT35

