HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A. No.3151 OF 2008

JUDGMENT:

The 2nd respondent—insurer among two respondents including the owner of the lorry bearing No.ATT 6159, in O.P. No.1227 of 1999 on the file of Motor Vehicle Accidents Claims Tribunal-cum-I Additional District Judge, Ranga Reddy District at L.B Nagar (for short 'the Tribunal') which was maintained by claimant for damages to his auto bearing No.AP 11 U 3617 in the accident occurred on 28.09.1999 at about 2.30 am or so, which was lying parked at L.B Nagar bus stop on road side while waiting for passengers, the driver of the crime lorry came at high speed in a rash and negligent manner and dashed against the opposite coming lorry bearing No.MP 24 C 4469 and turned turtle and dashed the auto, for which the auto badly damaged, under Section 166 of Motor Vehicles Act, 1988 (for short 'the Act') for a compensation of Rs.50,000/-, since the Tribunal vide award dated 14.08.2002 awarded compensation of Rs.35,000/- with interest at 9% per annum with joint liability against respondents 1 and 2, maintained the present appeal.

2) Heard learned standing counsel for the insurer and learned counsel for the respondent—claimant. Respondent No.2—owner of the vehicle herein remained exparte before the Tribunal, even impleaded in this appeal dismissed for default, is no way fatal to the maintainability of 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 insurer that Section 147 (2) (b) of the Act is the only provision that is invoked in

[1] 2001 (1) ALT 495 DB

saying the Tribunal erred in awarding compensation of Rs.35,000/- even though the liability of the insurer to the third party damage is only Rs.6,000/-, thereby it is required to be confined to a maximum of Rs.6,000/- by reducing the rate of interest from 9% per annum to 7.5% per annum.

4) The policy marked as Ex.B1 shows it is an Act policy and there is nothing to show to cover the risk of third party vehicle by any payment of additional premium. In the absence of which, the Act policy under Section 147 (2) (b) is very clear in respect of damage to a property of a third party is limited to Rs.6,000/- only.

5) As the very policy speaks it is an Act policy and limit of liability under Section 147 (2) (b) is very clear that in the case of Act policy, the liability of insurer in respect of damage to any property of third party is Rs.6,000/- and the joint liability of insurer, to indemnify out of compensation of Rs.35,000/- with interest at 9% per annum, shall confine only for Rs.6,000/- with interest and for the remaining amount of Rs.29,000/- its owner is made liable.

6) Accordingly and in the result, the appeal is partly allowed. 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.06.09.2016
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Date:06.09.2016

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