

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A.No.2919 OF 2009

JUDGMENT:

The Chairman, Motor Accidents Claims Tribunal-cum-V Additional District Judge, (FTC) at Kothagudem (for short, 'the Tribunal'), awarded a compensation of Rs.2,70,000/- as against the claim of Rs.3,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988, by his order, dated 28.08.2008, in M.A.T.O.P.No.847 of 2005, for the death of one Chamanthula Roshaiyah, whose legal heirs/legal representatives are the claim petitioners, but, on the ground that the driver of the car, which is involved in the accident, was holding non-transport driving license, but not possessing transport license, the Tribunal declined to fasten the liability on 2nd respondent-Insurance Company. Questioning the same, the present appeal is preferred by the claim petitioners in the said O.P.

2. The appellants herein are the petitioners, while respondent Nos.1 and 2, who are owner and the insurer of the car bearing registration No.AP 24 U 5678, respectively, were respondent Nos.1 and 2, respectively, in the original petition.

3. Heard Sri Gajanand Chakravarthy representing Sri S.R.Chelukuri, learned counsel for the appellants, and Sri P.Harinath Gupta, learned Standing Counsel for the 2nd respondent – New India Assurance Co. Ltd.

4. Since the fact-situation including the quantum of compensation awarded by the Tribunal is not in dispute, there is no need to advert to the details thereof.

5. The disputed question involved in the present case is well settled by the Hon'ble Supreme Court in **S.Iyyapan v. United India Insurance Co. Ltd**¹. Following the said judgment, in an alike situation, in the decision in **New India Assurance Co. Ltd. v. Darji Laxmi**² rendered by me on 13.04.2015, liability on the Insurance Company has been fastened, but, however, the Insurance Company was directed to initially pay the compensation amount and recover the same from the owner of the offending vehicle.

6. Therefore, in the light of the above decisions, in the present case also, the 2nd respondent-Insurance Company is directed to initially pay the compensation amount and recover the same from the 1st respondent. The award and decree under challenge are confirmed in all other respect.

7. Accordingly, the appeal is allowed to the extent indicated above. There shall be no order as to costs.

8. As a sequel, miscellaneous applications, if any pending in the instant appeal, stand closed.

A. SHANKAR NARAYANA, J

21st October, 2016
v v

¹ 2013 ACJ 1944 (SC)

² 2016 ACJ 1042