

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA No.2971 OF 2005

JUDGMENT:

The appellants are the claimants 1 to 4, no other than the wife and minor children of deceased Manni Singh, aged about 38 years, as per Ex.A.4 inquest report and Ex.A.5 post-mortem report. The claim was maintained u/s.163-A of the Motor Vehicle Act,1988 (*for short, 'the Act'*), in O.P.No. 26 of 2001 on the file of the learned Chairman, Motor Accidents Claims Tribunal–cum-I Additional District Judge, at Ranga Reddy district, (*for short, 'Tribunal'*), against the owner and Insurer of the Auto trolley bearing No.AP 9U 8520, for compenssition of Rs.3,00,000/- for the death of Manni Singh. Since the tribunal awarded Rs.2,95,088/-(Rupees two lakhs ninety five thousand and eighty eight only) with interest at 9%p.a. by fixing liability against 1st respondent-owner of the crime vehicle only, the claimants preferred the present appeal with the contentions as well as submissions during the course of hearing that compensation granted by the tribunal is utterly low and ought to have fixed joint liability.

2. Heard and perused the material on record.

3. Whereas, it is the contention of the learned counsel for the Insurer from the 1st respondent-owner of the crime vehicle who remained exparte before the tribunal even did not turn up in the appeal is taken as heard, that the award of the tribunal holds good and there is nothing to interfere with the award of the tribunal for this Court while sitting in appeal and to dismiss the appeal.

4. The manner of the accident was that on 12.10.2000, while the deceased and some others were returning from Gandhi Hospital, Secunderabad to their village Mallampet in the crime auto, due to rash and negligent driving of driver of the auto, it hit a tree and accident took place, as a result some of them sustained injuries and Manni Singh(deceased) died on the way to hospital. From the very claim petition averments, the deceased was unauthorized passenger of goods vehicle even though the policy Ex.B.1 covers legal liability for non fair paid passenger like owner or attender of goods for any such case, thereby the tribunal is right in awarding compensation only against the owner and exonerating the insurer including by negating

the contention of at least pay and recovery benefit available referring to

National Insurance Company Limited Vs. Baljit Kour^[1]. The principle laid down in **Baljit kour** (supra) no way applies for the claim petition is pending at the time **New Assurance Company Vs. Asha Rani**^[2] decided wherein the expression of **Asha Rani**(supra) given prospective operation by **Balji Kour**(supra). Hence, there is nothing to interfere with the award of the tribunal for this Court while sitting in appeal.

5. In the result, the Appeal is dismissed. There is no order as to costs in the appeal. Consequently, pending miscellaneous petitions, if any, in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:15.07.2016

Vvr

^[1] (2004) 1 ALD 98(SC)

^[2] (2003) 2 SCC 233