

***HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO**

+MACMA Nos.172,209 and 915 of 2010

% Dated 19.01.2017

MACMA No.172 of 2010

Between:

United India Insurance Company Limited ... Appellant

and

\$ N.Jagannath ... Respondent No.1/ claimant

Sampath Reddy ... Respondent No.2/ owner

MACMA No.209 of 2010

Between:

United India Insurance Company Limited ... Appellant

and

\$ K.Shanth Kumar ... Respondent No.1/ claimant

Sampath Reddy ... Respondent No.2/ owner

MACMA No.915 of 2010

Between:

United India Insurance Company Limited ... Appellant

and

\$ H.Arjun and another ... Respondents/ claimants

Sampath Reddy ... Respondent No.3/ owner

! Counsel for the appellant : Sri Somanchi Venkateshwarlu,

^ Counsel for respondents (in all cases) : Sri U.P.Rao

Counsel for owner (in all cases) : ---

< GIST : ---

>HEAD NOTE : ---

? Cases referred: :

- ¹ (2015) 1 ALD 105(SC)
- ¹ 2003(8) SCC 731
- ¹ (2012) 2 SCC 356
- ¹ (2012) 2 SCC 356
- ¹ (2001 (5) SCC 175)
- ¹ 2013 ACJ 1239
- ¹ 1977 ACJ 118 (SC)
- ¹ [(2004) 5 SCC 385 : AIR 2004 SC 2107]
- ¹ 2014(1)SCC680
- ¹ (2015) 9 SCC 273
- ¹ 2013(1) An.W.R.808(SC)
- ¹ 2009 ACJ 1298.
- ¹ (2004) ACJ 1
- ¹ (2014) 1 SCC 244

HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A.Nos.172,209 and 915 of 2010

COMMON JUDGMENT:

These three appeals are preferred by the self-same Insurer-2nd respondent out of two respondents including owner of Maruthi van bearing No.AP 9 D 8833 in all the three claim petitions viz; O.P.No.682 of 2007(subject matter of MACMA No.915 of 2010) filed by parents of the deceased-Abhilash for compensation of Rs. 5,00,000/-; O.P.No.670 of 2007 (subject matter of MACMA No.209 of 2010) filed by one of the injured claimants-K.Shanth Kumar for compensation of Rs.7,00,000/- and O.P.No.669 of 2007 (subject matter of MACMA No.172 of 2010) filed by another injured claimant-Jagannath for compensation of Rs.2,00,000/- on the file of the learned Chairman, Motor Accidents Claims Tribunal-cum II Addl. Metropolitan Sessions Judge, Hyderabad (for short, 'the tribunal') under Section 163-A of the Motor Vehicle Act,1988 (*for short, 'the Act'*), impugning the respective awards-dated 02.11.2009 in O.P.No.669 of 2007, since granted compensation of Rs.78,952/- out of Rs.2,00,000/-, dated 09.10.2009 in O.P.No.682 of 2007 of Rs.3,21,000/- out of Rs.5,00,000/- and dated 02.11.2009 in O.P.No.670 of 2007 of Rs.5,42,185/- out of Rs.7,00,000/- fixing joint liability in all the claim petitions.

2. The common contentions in the grounds of the three appeals of the appellant-Insurer are that the tribunal should have held that the Insurer is not liable for payment of any compensation because the accident occurred due to the fault of the rider of the motor bike with triple riding and for no fault of driver of Maruti van as the Ex.A.6 rough sketch and the Ex.A.2 charge sheet and the Ex.A.5 MVI report column No.8 all if read together show that the rider of the motor bike himself dashed the Maruthi van on the right side, that the tribunal failed to observe that the rider of

the motor bike was possessing only learner's license and due to the lack of skill in the triple riding that resulted the accident, that the tribunal should have dismissed the claim for neither Insurer nor owner of the van are liable, that in case of injured-K. Shanth Kumar (in O.P.No.670 of 2007) the tribunal awarding Rs.50,000/- towards loss of amenities of life besides awarding of Rs.3,67,200/- for 60% disability, is untenable so also awarding Rs.1,00,000/- towards artificial limb which actually costs Rs.25,000/- as per the evidence of R.W.2 doctor examined by the Insurer, that 25% of the award amount to be reduced towards the contributory negligence in all the appeals and also in view of the triple riding and hence, to set aside the three awards by exonerating the Insurer by allowing the appeals.

3. The three matters since arisen out of same accident and with common contentions in the appeals, these are taken up for common hearing and disposal.

3-a. Heard the learned counsel for the Insurer-appellant who reiterated the contentions in the grounds of appeals and relied upon the expression of the Apex Court in **Kumari Kiran Vs. Sajjan Singh**¹ wherein the contributory negligence was apportioned as 25% on the rider of the motor cycle who was riding with two minor children saying as he could have taken sufficient caution while riding and remaining 75% on the driver of the offending tractor and also relied upon the Apex Court's expression in **Municipal Corporation of Greater Bombay Vs. Laxman Iyer**², in which it is taken 25% contribution of the bike rider and 75% negligence of the bus driver for the accident outcome of composite negligence. It is also the contention therefrom that the tribunal erred in not considering the non-impleadment of owner and Insurer of the bike and without fixing their

¹ (2015) 1 ALD 105(SC)

² 2003(8) SCC 731

contribution for awarding compensation against the insurer and owner of the bike, though supposed to apportion even not impleaded, for the reason the claimants though need not plead and prove either their negligence or of the opposite vehicle in a claim filed under Section 163-A of the Act, the contributory negligence or negligence of the opposite vehicle or of the deceased/ injured, as the case may be, can be pleaded and proved by the insurer/ owner of the vehicle in opposing the claim, including to establish any other plea like injured/ deceased is not a third party to indemnify by the insurer and placed reliance upon mainly the Apex Court's expression in **National Insurance Corporation Ltd., Vs Sinitha**³. It is also the contention from the grounds of appeal and oral submissions that, the quantum of compensation awarded by the tribunal in all the three claims are also excessive and exorbitant, so also rate of interest and the other contentions are award of amounts other than provided and fixed in the II Schedule of the Act, for the claim under Section 163-A of the Act, is untenable and thereby sought to exonerate the insurer or otherwise reduce the compensation by fixing contributory/ composite negligence in deciding the appeals covered by the impugned awards of the Tribunal, so far as against the owner and insurer concerned of the van.

3-b. The learned counsel for the respective claimants submits that there is nothing to interfere for this Court while sitting in appeals with the respective awards of the tribunal but for no cross-objections to enhance the compensation and hence to dismiss and the appeals 2nd respondent-owner did not submit any separate independent argument but for saying if at all liable to indemnify the Insurer else to dismiss the claims arisen out of triple riding of self-negligence of claimants.

4. Heard and perused the material on record.

³ (2012) 2 SCC 356

5. The factual matrix for common disposal of the matters is that on 30.04.2007 at 9.30 A.M., the deceased-Abilash-rider of the bike, (son of claimants in O.P.No.682 aged 22years claimed working in Scary House, Imax theatre and drawing of Rs.3,400/-p.m.), along with the two pillion riders-injured by name K.Shanth Kumar, (claimant in O.P.No.670 aged about 35 years, claimed working as Mason and earning about Rs.3,400/- p.m.) and Jagannath, (claimant in O.P.No.669 aged about 32 years, claimed working as auto driver and earning of Rs.3,300/- p.m.), while proceeding on the Pulsar Motor Cycle bearing No.AP 28 AT 3548 to attend a marriage at Bidar and when reached Khandi village, opposite Motilal Dhaba, the Maruti car supra belongs to claim petition 1st respondent insured with the 2nd respondent-appellant herein covered by Ex.B.1 policy coming behind their motor cycle in rash and negligent manner dashed their motor cycle and due to which their motor cycle came into contact with back tyre of the lorry bearing No.AP 16TU 4900 which was proceeding in front of their bike and as a result they fell down on the road and sustained injuries and were shifted to hospital, that while undergoing treatment Abhilash died on 03.05.2007. The further material shows, N.Jagannath sustained fracture of left shaft femur who was initially joined in Gandhi hospital and later at Krishna Super Specialty Neuro Hospital, Kachiguda and undergone surgery and was discharged on 11.05.2007 and the other injured K.Shanth Kumar for his crush injury initially joined in Gandhi Hospital, that due to the crush injury to left leg upper third and extensive loss of tissues of skin, his left leg was amputated.

5. From the factual matrix and evidence, the tribunal held in all the three claims that since the claims are filed under Section 163-A of the Act, it need not be proved the rash and negligence on the part of the crime vehicle driver but for use of the vehicle. In fact from the evidence of

P.W.1, Ex.A.1 FIR and A.2 chargesheet, it clearly proves that driver of the Maruthi van is responsible for the accident. Further held that the 1st respondent-owner though contended that he sold his vehicle in the year 1997 itself but failed to produce any proof in support of it. Ex.B.1 policy of the van is in force by the date of accident and covers the third party risk.

6. Before discussing the further facts, it is necessary to state the scope of the provisions of the Motor Vehicles Act, 59 of 1988, amended by Act, 54 of 1994 and further amended by Act, 39 of 2001. It is needless to say, the Chapters 10 to 12 are not only inter-related but also interlinked. Section 140 is incorporated in Chapter X, Section 163A is incorporated in Chapter XI and Section 166 is incorporated in Chapter XII are with different wording. *The wording of Section 140(3) is with self same wording of Section 163A(2), however, there is no similar wording of Section 140(4) in Section 163A to take away the defence right specifically like in Section 140(4).* It is to say, in a claim filed under Section 140 or 163A, the claimant shall not be required to plead and establish the death or permanent disablement relating to the claim were due to wrongful act, neglect or default of owner or owners of the vehicle or vehicles concerned or any other person. A close reading of this provision speaks the claimants are not required to plead or prove negligence of the deceased or injured as well as negligence of the person owned the vehicle against whom the claim is made or in case of more than one vehicle involved of negligence of any one of them or composite or contributory negligence as the case may be of the vehicles drivers or other person.

7. So far as the claim under Sections 140, 163A and 166 concerned, it clearly provides by Sections 163-B & 141 that the claim can be filed under either of said sections and not under both; whereas a person who filed application under Section 140 is entitled to file an independent application

under Section 166 with claim therein or simultaneously or later subject to these provisions as the case may be. Therefrom, so far as claim under Section 163A concerned, there is no requirement and proof of fault even not an interim measure. Similarly, from reading of Section 168 r/w 166 of the Act, Section 168(1) speaks the claim under Section 166 in determining subject to provisions of Section 162 in the award, the amount of compensation appears it to be just and specifying the person or persons to whom compensation shall be paid and the amount which shall be paid by the insurer or owner or driver of the vehicle involved in the accident or by all or any of them as the case may be. It indicates the determination specifically including to the extent of liability in claim under Section 166 on fault liability from pleading and proof. It is leave about sections 167 r/w 163A or 166-the compensation that can be claimed under Workmen's Compensation Act for death or bodily injury under that Act, anything contained in that Act, the claimants are entitled to compensation may claim such compensation under either of these two Acts but not under both. It appears from said arrangement also of Section 140 is incorporated in Chapter X of totally no fault liability-on proof of accident while vehicle in use, whereas Section 163A is incorporated in Chapter XI-of semi fault liability-on proof of accident while vehicle in use claimant is entitled to compensation, however does not specifically prohibit the respondent to raise plea of negligence or fault of injured/ deceased or his or his vehicle driver contributory or composite negligence for no similar prohibitory clause in Section 163A similar to Section 140 and needless to say Section 166 is incorporated in Chapter XII-of totally fault liability from said combined reading of the three provisions of the three chapters in Juxtaposition, more in particular noticing the difference between Section 140(3&4) with Section 163A(2) detailed supra. This conclusion no doubt lends support from the

recent two judge Bench expression of the Apex Court in **National Insurance Corporation Ltd. v. Sinitha**⁴ wherein it was held by referring to the earlier two judge bench expression of the Apex Court in **Oriental Insurance Co. Ltd. Vs Hansrajbhai V. Kodala**⁵ and in answering in affirmative on the aspect of claim for compensation under Section 163A of the Motor Vehicles Act can be defeated either by the owner or by the insurance company by pleading and establishing that the accident in question was based on the contributory negligence of the offending vehicle. It was observed that Section 140(3) and Section 163A(2) both are pari-materia provisions and there is no provision corresponding to Section 140(4) in Section 163A and thereby the claim for compensation under Section 163A held is fault based liability from the contributory negligence or fault negligence of deceased/ claimant or disabled victim in causing the accident compensation may be reduced on such proof. However, the onus to prove contributory negligence remain on the defence in opposing the claim under Section 163A i.e. the owner and insurer can defend the claim and the Hansrajbhai V. Kodala (supra) did not decide that determination of compensation under Section 163A is based on no fault liability principle. The claim for compensation raised in Section 163-A need not be based on pleadings or proof of claimants showing absence of contributory negligence, but for onus to prove contributory or composite or total negligence of injured/ deceased or of his traveling vehicle driver; lies on the shoulders of the owner or insurer, opposing and defending the claim to so establish in discharge of the burden lies on them. It was observed for the conclusion that where claim cannot be defeated on account of contributory negligence then such provision would fall under no fault liability principle. It is thereby as per Section 140(4), both claim and defence are precluded from raising any

⁴ (2012) 2 SCC 356

⁵ (2001 (5) SCC 175)

ground of fault and whereas Section 163-A is an independent provision with non-obstinate clause having overriding effect over all other provisions of the Act. It is also a rationale behind it, in saying as fault liability principle from where large compensation amount involved or compensation amount is likely to be high, it is legitimate that insurance company is not fastened with liability when offending vehicle suffered fault (wrongful act, neglect or doubtful) under alleged act. The appellant/ insurance company also placed reliance upon the decision of **Bandana v. Rajesh Kumar**⁶ wherein it was held by mainly relying upon **Sinitha and Hansrajbhai (supra)** besides **Minu B.Mehta v. Balkrishna Ramchandra Nayar**⁷, that negligence of the victim can be decided by allowing the insurer and owner – being the opposite parties to the claim to defend and fixed 25% contributory negligence on the deceased.

8. However, it is important to notice that after **Hansrajbhai and before Sinitha**, where correctness of the law laid down in Hansrajbhai under Section 163A came for consideration on reference made, was answered by the three judge bench expression in **Deepal Girishbhai Soni and others Vs. United India Insurance Co.Ltd., Baroda**⁸ in the affirmative. While so answering, it was held that though both Sections 166 and 163A are final proceedings, under Section 166 on fault liability, the duty is on the claimants to plead and prove wrongful or negligent act of opposite party to get higher compensation, whereas under Section 163A on no fault liability, there is no duty on the claimants to plead and prove wrongful or negligent act of opposite party to get compensation under the structured formula. It did not specifically say the opposite parties right to defend in this regard by the owner/insurer respondents to the claim of negligence or fault or

⁶ 2013 ACJ 1239

⁷ 1977 ACJ 118 (SC)

⁸ [(2004) 5 SCC 385 : AIR 2004 SC 2107]

contribution on the injured/ deceased or their vehicle driver, available under Section 166 is not there and taken away under Section 163-A. Even for so holding it was not specifically considered referring to the Section 140(3) and Section 163A(2) of both are pari-materia provisions and there is no provision corresponding to Section 140(4) in Section 163A and thereby the claim for compensation under Section 163A held is fault based liability from the contributory negligence or fault negligence of deceased/ claimant or disabled victim in causing the accident compensation may be reduced on such proof, that was in fact referred and answered in **Sinitha** supra. But for that, both the expressions in **Sinitha** and in **Deepal Girishbhai Soni** (supra) confirmed law laid down in **Hansrajbhai** (supra). In fact on this aspect that **Deepal Girishbhai Soni** was not referred in **Sinitha** supra while holding Section 163A is founded on fault liability principle, correctness of the law in **Sinitha** supra was referred to a larger bench in **United India Insurance Company Vs Sunil Kumar**⁹ and it is pending.

9. In fact in **Deepal Girishbhai Soni** supra, it was observed in paras 39 to 42 that “*Section 163A was introduced in the Act by way of a social security scheme. It is a code by itself. Section 140 of the Act dealt with interim compensation but by inserting Section 163-A, the Parliament intended to provide for making of an award consisting of a pre- determined sum without insisting on a long-drawn trial or without proof of negligence in causing the accident. The Amendment was, thus, a deviation from the common law liability under the Law of Torts and was also in derogation of the provisions of the Fatal Accidents Act. The Act and the Rules framed by the State in no uncertain terms suggest that a new device was sought to be evolved so as to grant a quick and efficacious relief to the victims falling within the specified category. The heirs of the deceased or the victim in terms of the said provisions were assured of a speedy and effective remedy which was not available to the claimants under Section 166 of the Act*”.

Thus, from a combined reading of the provisions supra with reference to the law as laid down in **Sinitha**, confirming **Hansrajbhai** supra

⁹ 2014(1)SCC680

including with reference to **Deepal Girishbhai Soni** supra that for the efficacious and as final relief under Section 163-A that can be maintained even negligence is on the part of the victim/ claimant for there is no need of proof required much less plea, but for proof of accident while the vehicle in use, as a deviation from general law of burden on the Claimant to plead and prove negligence of the other side and with no fault of victim/ claimant; however, it no way speaks from said combined reading in juxtaposition of these provisions that opposite parties are prohibited from taking defence plea and prove any negligence of victim/ complainant or their vehicle driver for non-liability or proportionate liability, as maintainability of claim is one thing proved or not proved or disproved as contemplated by the general principles and as defined in Section 3 of the Indian Evidence Act is other thing.

10. Leave apart, even in case of negligence of the victim once claim is maintainable under Section 163-A to plead and prove, there is no duty on the claimant/ s and they can ignore their negligence and maintain a claim, but for the controversy as to does it take away the opposite party's right to plead and prove under the common law but for such deviation is only to the extent of exempting the complainant from duty to plead and prove to avail quick relief.

11. In this case coming to the factual matrix, the appellant-Insurer's contention is mainly saying there is contributory negligence of the rider of the bike with triple riding resulted in their sustaining injuries of the three and the one of them succumbed to it and that the owner and Insurer of the bike should have been impleaded as one of the co-respondents to apportion liability by fixing contributory negligence of them for the owner and the Insurer of the bike to pay if any and therefrom the claim is not

maintainable. Once the claimants have no duty to plead and prove either self negligence or opposite party's negligence to maintain the claim under Section 163-A, it is maintainable against the owner and Insurer of the van, even without impleading the bike owner and insurer if any; but for to say if there is contributory negligence on the part of the bike rider with triple riding in respect of the three claims as per the pre-determined structured formula, the claimants without proof of any negligence when being entitled, unless it is shown of no negligence of driver and involvement of the van, the owner and insurer of the van cannot non-suit the claims but for remedy left open to seek to apportion between the two vehicles on satisfying the claims by filing execution petition as laid down in **Kenyei Vs. NIAC**¹⁰. It is because their entitlement is only under structured formula for the death of their deceased son in one claim and the others by two injured.

12. In **Reshma Kumari v. Madan Mohan**¹¹ the Apex Court (3JB) in answering a reference while approving the propositions laid down in **Sarla Verma Vs Delhi Transport Corporation**¹² held that in a claim for compensation under Section 163-A as per structured formula based on schedule II of the Act, the claimants are not required to plead or establish that death or permanent disablement was due to any wrongful act or neglect or default of the driver of the vehicle concerned and the Second Schedule does not apply to determine compensation for a claim under Section 166 where to award just compensation for such fault liability to plead and establish. Thereby the principles relating to determination of liability and entitlement of compensation either under Section 163A or under Section 166 is to opt anyone.

¹⁰ (2015) 9 SCC 273

¹¹ 2013(1) An.W.R.808(SC)

¹² 2009 ACJ 1298.

13. From the above, though it is proper to fix 25% contribution of deceased bike rider, without experience and with only learner's license though otherwise a valid license as per **NIC Vs. Swaran Singh**¹³ to travel with the two other injured pillion riders of the bike, from above legal propositions it is not liable to decide such composite/ contributory negligence of deceased bike rider and the two other injured pillion riders of the bike who are the claimants, but for left open to pay by owner and insurer of the van and approach the tribunal by filing execution petition for fixing composite/ contributory negligence of bike rider from its owner and insurer and recover from them for not even choose to implead them by the appellant insurer here in the three appeals.

14. Subject to the above remedy left open, coming to the quantum of compensation under structured formula and as per schedule II of the Act in the claim under Section 163-A of the Act, from the latest expression of the Apex Court in **Kishan Gopal Vs. Lala**¹⁴ at page No.257 para 37 in saying from the increase in the cost of index, where there is no proof of earnings what is provided by II Schedule under the structured formula under Section 163-A of the Act of Rs.15,000/- p.a., has to take to minimum Rs.30,000/- per annum. So far as interest is concerned, it is 7.5%p.a. the just rate of interest to fix within the discretionary power of the Court u/ sec.171 of the Act.

15. Coming to death claim, there is no dispute from both sides on the age of the mother of the deceased that to be taken into consideration for the deceased a bachelor more particularly in the claim under Section 163-A of the Act from **Krishan Gopal** supra. The claim petition mentioned the age of mother of the deceased as 40 years. Multiplier 15.5 can thus be applied.

¹³ (2004) ACJ 1

¹⁴ (2014) 1 SCC 244

The deceased-Abilash-rider of the bike, son of claimants in O.P.No.682 though shown working in Scary House, Imax theatre and drawing of Rs.3,400/-p.m., the evidence is different of working in other entity for salary of Rs.4500/-p.m. as per Ex.A8 and the tribunal disbelieved the same rightly thereby in taking as case of no proof of earnings at Rs.3000/-p.m. Here it is only to take as per the structured formula from Rs.30,000/-p.a. income of the deceased as per **Kishan Gopal** supra and the table speaks $1/3^{\text{rd}}$ to be deducted for personal expenses, the contribution to the claimants thus comes to Rs.20,000/- p.a. $\times 15.5 = \text{Rs.}3,10,000/-$ and further Rs.2,000/- towards funeral expenses and claimants are entitled loss of estate of Rs.2500/- as per Schedule II of the Act. Then it comes to Rs.3,14,500/-. Even ultimately for 25%contribution of deceased deducted therefrom it may come to Rs.2,35,875/-, however same now not deductible by determination. Thus, what the tribunal awarded of Rs.3,21,000/-with 7.5%p.a. interest is liable to pay by owner and appellant-Insurer and then file execution petition before the tribunal and claim apportionment for any composite negligence against owner and Insurer of bike.

16. Coming to one of the two pillion riders-injured by name K.Shanth Kumar, claimant in O.P.No.670 aged about 35 years, for no proof of income to the say of working as Mason and earning about Rs.3,400/- p.m., from it is only to take as per the structured formula at Rs.30,000/-p.a. with multiplier 16.5., though Medical Board certified 90%for the amputation of left leg above knee, what the tribunal taken is 60% permanent disability, from perusal of W.C.Act, Schedule-I item 17, it speaks 70% permanent disability, it comes to Rs.3,46,500/-. So far as artificial limb requirement from the evidence on record shows including of R.W.2, it is Rs.1,00,000/- to award and for medical expenses and other entitlement to the permanent disability besides pain and sufferance, loss of earnings during period of

treatment with disability to move even awarded Rs.28,500/- referring to Schedule-II of the Act, it comes to Rs.4,75,000/-. Thus what the tribunal awarded of Rs.5,42,185/- requires to be reduced to Rs.4,75,000/- with 7.5% p.a. interest which is liable to pay by owner and appellant-Insurer and then file execution petition before the tribunal and claim apportionment for any composite negligence against owner and Insurer of bike.

17. Coming to one of the two pillion riders-injured by name Jagannath, claimant in O.P.No.669 aged about 32 years, claimed working as auto driver and earning of Rs.3,300/- p.m., for no proof of income to the say, from it is only to take as per the structured formula Rs.30,000/-p.a. with multiplier 17, though there is no proof of any permanent disability, from perusal of the evidence of P.W.2 Doctor A.V.Reddy and Ex.A.3 wound certificate and Ex.A.7 discharge certificate and Ex.A.10 photos with negatives of the unhealed injury with some disability from the fracture of left femur with operation conducted leave about the other simple injuries, even taken 10% permanent disability, it comes to Rs.30,000/-p.a. $\times 10/100=3000 \times 17 =Rs.51,000/-$ + for medical expenses and other entitlement to the permanent disability besides pain and sufferance, loss of earnings during period of treatment with disability to move even awarded Rs.28,000/- referring to Schedule-II of the Act, it comes to Rs.79,000/-. Thus what the tribunal awarded of Rs.78,952/- requires to round it to Rs.79,000/- with 7.5% p.a. interest which is liable to pay by owner and appellant-Insurer and then file execution petition before the tribunal and claim apportionment for any composite negligence against owner and Insurer of bike.

18. Accordingly and in the result,

- a) The MACMA No.915 of 2010(O.P.No.682) is allowed in part by confirming the compensation awarded by the tribunal of

Rs.3,21,000/- and enhancing rate of interest from 6%p.a. to 7.5% p.a. which is liable to pay by owner and appellant-Insurer, in giving liberty therefrom to file execution petition before the tribunal and claim apportionment of compensation for any composite negligence against owner and Insurer of bike.

- b) The MACMA No.209 of 2010(O.P.No.670) is allowed in part by reducing the compensation from what the tribunal awarded of Rs.5,42,185/- to Rs.4,75,000/- with interest at 7.5%p.a. which is liable to pay by owner and appellant-Insurer, in giving liberty therefrom to file execution petition before the tribunal and claim apportionment of compensation for any composite negligence against owner and Insurer of bike.
- c) The MACMA No.172 of 2010(O.P.No.669) is allowed in part by rounding the compensation from what the tribunal awarded of Rs.78,952/- to Rs.79,000/- with interest at 7.5% p.a. which is liable to pay by owner and appellant-Insurer, in giving liberty therefrom to file execution petition before the tribunal and claim apportionment of compensation for any composite negligence against owner and Insurer of bike.
- d) There is no order as to costs of the *appeals and*
- e) Pending miscellaneous petitions, if any, in these appeals, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:19.01-2017.

Note: L.R. Copy to be marked.

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