

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL MISCELLANEOUS APPEAL No.3568 OF 2004

JUDGMENT:

Heard Sri K. Jagadishwar Reddy, learned counsel for the appellants and Sri E. Venugopal Reddy, learned standing counsel for respondent No.2 – M/s. United India Insurance Company Limited. Respondent No.1, owner of the vehicle, is shown in the cause title as not necessary party for the reason that he remained *ex parte* before the Principal Motor Accidents Claims Tribunal - cum - Principal District Judge, Nalgonda (for short 'Tribunal').

2. Of course, the Tribunal allowed the claim petition in part by awarding a compensation of Rs.2,07,000/- as against the claim of Rs.2,50,000/- laid under Section 163-A of the Motor Vehicles Act, 1988 (for short 'Act'), by order and decree, dated 11.02.2004, in O.P. No.1054 of 2002. In the appeal grounds, the value of the appeal is computed for a sum of Rs.43,000/-.

3. The appellant herein is the petitioner in the aforesaid O.P., while respondent Nos.1 and 2, who are owner and insurer of Lorry bearing registration No.AP 27T 7904, respectively, are arrayed as respondents as such.

4. For the sake of convenience, the parties hereinafter referred to as they were arrayed in the aforesaid OP before the Tribunal.

5. The learned counsel for the petitioner would submit that the decree of the Tribunal would show that the claim was laid under Section 166 of the Act, whereas the learned standing counsel for respondent No.2 would submit that the claim was laid under Section 163-A of the Act. To resolve the controversy, when the original claim petition is perused from the records submitted by the Tribunal, it is clearly mentioned by the petitioner that the claim petition was laid under Section 163-A of the Act. In that view of the matter, the learned standing counsel would submit that the Tribunal ought not to have adjudicated the claim without resorting to the structural formula contemplated by the provisions of Section 163-A of the Act, which includes schedule annexed thereto. What has been advanced by the learned standing counsel is correct. The Tribunal totally went wrong in computing the compensation treating the claim laid under Section 166 of the Act.

6. Be that as it may, since there is death of a young boy aged 19 years, who is the son of the petitioners, it cannot be equated even in terms of money. Keeping in view, the age of the deceased as 19 years, the balance amount of Rs.43,000/- is awarded as requested in the present appeal.

7. Concerning rate of interest, the Tribunal granted the same at 9% per annum, which is not disturbed on the amount awarded by the Tribunal. However, interest at 7.5% per annum is awarded on the enhanced amount of Rs.43,000/- from the date of petition till date of

realization in view of the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**¹.

8. In the result, the appeal is allowed and the order and decree, dated 11-02-2002, in O.P. No.1054 of 2002, passed by the Tribunal, are modified, enhancing the compensation to Rs.2,50,000/- (Rupees two lakhs and fifty thousand) from Rs.2,07,000/- with interest at the rate of 9% per annum on the amount of Rs.2,07,000/- granted by the Tribunal and at the rate of 7.5% per annum on the enhanced amount of Rs.43,000/- (Rupees forty three thousand) from the date of petition till date of realization. The compensation shall be apportioned between the petitioners in the same proportion in which the original compensation was directed to be apportioned and disbursed by the Tribunal. There shall be no order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in the appeal shall stand closed.

A. SHANKAR NARAYANA, J

October 05, 2017

Mgr

¹. 2013 ACJ 1403