

**THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

**CIVIL REVISION PETITION No.1160 OF 2015**

**ORDER:**

This revision, under Article 227 of the Constitution of India, is filed challenging the order dated 02.12.2014 in I.A. No.133 of 2014 in O.P. No.117 of 2011 passed by the IV Additional District and Sessions Judge, (FTC), Ananthapuramu, dismissing the petition filed under Rule 17 of Order VI of the Code of Civil Procedure, 1908 (for short 'C.P.C.') on the ground the income of the petitioner is more than Rs.40,000/-, thereby he is disentitled to invoke Section 163-A of the Motor Vehicles Act, 1988 (for short, 'the Act').

Undisputedly, the petitioner filed claim petition under Section 166 of the Act claiming compensation for fault liability, thereafter filed an interlocutory application under Rule 17 of Order VI C.P.C. to convert the claim petition under Section 163-A of the Act. Section 163-A of the Act also deals with fault liability subject to placing initial burden on the insurance company or the respondent in view of the Judgment of the Apex Court in **National Insurance Company Ltd., v. Sinitha**<sup>1</sup>.

Section 163-A of the Act is a special provision as to payment of compensation under structured formula basis. There is a lot of difference between the claims under Sections 166 and 163-A of the Act. According to Schedule II of the Act, to claim benefit under Section 163-A of the Act, there is a cap on the annual income of

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<sup>1</sup> 2011(4) KLT 821(SC)

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the injured/ claimant and it shall not exceed Rs.40,000/- per annum in any event.

Here, at column 6 of the claim petition, monthly income of the petitioner was mentioned as Rs.15,000/-, claimed compensation Rs.8,00,000/- under various heads. When the annual income of the petitioner is more than Rs.40,000/-, he is disentitled to claim compensation under Section 163-A of the Act. Unless the petitioner limits his annual income to Rs.40,000/-, the petitioner is disentitled to amend the claim petition converting the petition filed under Section 166 to 163-A of the Act.

The counsel for the petitioner, though argued the matter at length, did not bring to my notice law laid down by any of the court to the effect that even if the annual income of the injured is more than Rs.40,000/-, such injured is entitled to claim compensation under Section 163-A of the Act.

At this stage, Ms.Sindura, learned counsel, representing the learned counsel for the petitioner on record, informed that she has no instruction for reduction of annual income of the petitioner to Rs.40,000/-, to claim compensation under Section 163-A of the Act, based on structured formula.

Even according to the averments in the claim petition, the petitioner was earning Rs.15,000/- per month, which comes to Rs.1,80,000/- per annum, thereby the petitioner is disentitled to claim compensation under Section 163-A of the Act, as there is a cap on the income of the injured/ petitioner to invoke Section 163-

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A of the Act. The trial court did commit no error in dismissing the petition filed under Rule 17 of Order VI C.P.C., hence I find no ground to interfere with the order challenged in the revision. However, the petitioner is entitled to prosecute the claim petition filed under Section 166 of the Act.

In the result, the C.R.P. is dismissed. There shall be no order as to costs.

Miscellaneous petition, if any, pending in the revision petition shall stand closed.

01.06.2017  
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**M.SATYANARAYANA MURTHY, J**