

THE HON'BLE SRI JUSTICE A.V. SESA SAI

CIVIL REVISION PETITION NO.2968 OF 2012

ORDER:

The appellants in A.S.No.171 of 2010 on the file of the Court of Motor Accidents Claims Tribunal-cum-VI Additional District Judge, Mahabubabad are the petitioners in the present Civil Revision Petition.

2. Heard and perused the material available on record.
3. The present Civil Revision assails the order dated 13-04-2012 passed by the said court in I.A.No.947 of 2011 filed by the petitioners herein under the provisions of Order XLI Rule 27 read with Section 151 of the Code of Civil Procedure, 1908.
4. The learned VI Additional District Judge by way of order under challenge dismissed the said I.A. The principal contention urged by the learned counsel for the petitioners in the present revision is that the learned District Judge ought to have taken up the said application for additional evidence along with appeal and ought to have passed appropriate orders and ought not to have passed the orders before the disposal of the appeal. In support of his contention, the learned counsel for the petitioner placed reliance upon the judgment of this court in *Md.Yousufuddin v. Md.Masiuddin and others*⁽¹⁾. A copy of the said reported judgment is placed on record.

¹ 2011 (4) ALD 210

In the said decision, this Court while following the judgment of the Hon'ble Apex Court in *State of Rajasthan v. T.N.Sahani*⁽²⁾ allowed the revision filed by the petitioner therein. The Hon'ble Supreme Court in the above referred judgment categorically ruled that the application filed Order XLI Rule 27 CPC should be decided along with appeal.

5. In view of the said judgment of the Hon'ble Supreme Court, the order impugned in this revision cannot be sustained.

6. For the afore said reason, this Civil Revision Petition is allowed, setting aside the order dated 13-04-2012 passed by the Motor Accidents Claims Tribunal-cum-VI Additional District Judge, Mahabubabad in I.A.No.947 of 2011 in A.S.No.171 of 2010 and consequently I.A.No.947 of 2011 stands restored to file for consideration of the same along with appeal. No costs.

Miscellaneous Petitions pending, if any, in this CRP shall stand closed.

A.V.SESHA SAI, J

10.08.2017
TSNR

² (2001) 10 SCC 619