

SMT. JUSTICE T.RAJANI

MACMA. No.1747 of 2008

JUDGMENT:

The appellant herein, which is the ICICI Lombard General Insurance company Limited, 2nd respondent before the Court below, filed the present appeal assailing the order of the III Additional Chief Judge, City Civil Court, Hyderabad in O.P. No.597 of 2006 on 03.08.2007, on a technical ground, that the amount awarded under certain heads cannot be sustained as they are beyond the limits prescribed under Section 163-A of the Motor Vehicles Act, 1988 (hereinafter referred to as “the Act”) since the application filed by the claimants is under Section 163-A of the Act.

Heard the learned counsel on either side and perused the material on record.

The learned counsel for the appellant submits that since the application is filed under Section 163-A of the Act the order of the Court below, to the extent of awarding Rs.10,000/- towards loss of estate and Rs.10,000/- towards consortium to the first claimant cannot be sustained, as under Section 163-A of the Act the said amounts have to be only Rs.2,500/- and Rs.5,000/-, respectively.

The learned counsel for the claimants counters the said arguments with the help of a ruling of the Hon’ble High Court of Calcutta reported in the case of **NATIONAL INSURANCE CO. LTD. Vs. MAINAK GHOSH AND OTHERS**¹ wherein the Hon’ble High Court of Calcutta relied upon the ruling of the Apex Court in **Puttamma’s** case, **(2014 ACJ 526 SC)** wherein it was observed that the Second Schedule has become redundant, irrational and unworkable. The Hon’ble High Court of Calcutta, considering the spiraling market prices, fixed Rs.10,000/-

¹ 2017 ACJ 986

as funeral expenses; Rs.20,000/- as compensation for loss of consortium; and Rs.10,000/- for loss of estate. Hence, in view of the above legal position, there need not be any interference with the order of the Court below.

The rulings relied upon by the learned counsel for the claimants with regard to the filing of the cross objections do not become relevant as no cross objections are filed in this case and as they are only with regard to the maintainability of the cross objections. Ruling of the Division Bench of this Court reported in the case of **PANUGANTI SATYANARAYANA Vs. ASHIKULLA KHAN AND ANOTHER**² is to the effect that though there is no specific provision in 1988 Act about the applicability of Order 41 Rule 22 of Civil Procedure Code cross objections can be filed. There is no dispute on the said proposition but as no cross objections are filed there is no need for the claimants' counsel to cite the said judgment. Ruling reported in the case of **K.VARALAXMI AND OTHERS Vs. UNITED INDIA INSURANCE COMPANY LIMITED, SECUNDERABAD AND OTHERS**³ is on the aspect of assessment of compensation, which also does not become relevant and necessary. The ruling of the constitutional bench of this Court reported in the case of **ADAM INDUR MUTTEMA AND OTHERS Vs. RATHOD REDDIA AND OTHERS**⁴ is also not relevant as it is on the aspect of granting compensation more than the claimed amount. Ruling reported in the case of **S.GANGADHAR GOUD Vs. CHIKKELA LAXMAN AND OTHERS**⁵ rendered by this Court need not be discussed, as it is already concluded that the order of the Court below needs no interference. The learned counsel also cited the judgment reported in the case of **SARALA VERMA AND OTHERS Vs. DELHI TRANSPORT CORPORATION AND**

² 2015 AAC 1449 (AP)

³ 2014 AAC 2520 (AP)

⁴ 2015 ACJ 2414

⁵ 2009 (4) ALD 634

ANOTHER⁶ but the same also does not become relevant in this appeal, which is filed by the Insurance Company. Hence, with the above observations, this appeal is liable to be dismissed and is accordingly dismissed. There shall be no order as to costs.

JUSTICE T. RAJANI

Date: 24.10.2017
LSK



⁶ 2009 ACJ 1298