THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

CMA NO. 3972 OF 2004

JUDGMENT:

This appeal is directed by the insurance company against the award dated 23.07.2003 passed by the Motor Accidents Claims Tribunal-cum-I-Additional District Judge, Nalgonda (for short 'the Tribunal), in O.P.No.290 of 1996, whereby the Tribunal awarded compensation of Rs.1,50,000/- with interest at 9% per annum from the date of petition till the date of realization, on account of the death of G.Isthari caused in a motor vehicle accident that occurred on 06.01.1995, when the deceased and others boarded lorry bearing No. ABT 7132, proceeding towards Valigonda, when the lorry reached Tekulasomaram, its driver drove at high speed in a rash and negligent manner and lost control over it, due to which turned turtle, the inmates of the lorry received injuries and fractures and the deceased died on the spot, as against the claim of Rs.1,50,000/-.

2. For the sake of convenience, the parties herein are referred to as arrayed in the tribunal.

3. Learned counsel for the appellant/insurance company contended that the deceased was traveling in a goods vehicle as gratuitous passenger and also contended that the decision relied on by the tribunal in **New India Assurance Company v Satpal Singh**[1] was overruled in **New India Assurance Company v Asha**

[1] (2000) 1 SCC 237

Rani[2] and that the tribunal ought to have seen that even after amendment of the Act in 1994, the passengers traveled in goods vehicle were not covered by the policy and only owner of the goods or his agent were covered by the policy.

4. Admittedly, there is no dispute with regard to the manner of accident, involvement of vehicle and policy issued by the insurance company and its validity. As seen form the material available on record, as per Ex.A.2-inquest report, the deceased was found under the crime vehicle and the police lifted the lorry and removed the deceased with the help of crane and no rebuttal evidence was adduced on behalf of the insurance company that the deceased was gratuitous passenger. Since the policy issued by the insurance company is an Act policy, the deceased was lying under the lorry, it is not a fit case to interfere with the award of the tribunal and the award passed by the tribunal is well considered. However, the rate of interest granted by the tribunal is reduced to 7.5% per annum as per decision of the apex Court in **Rajesh v Rajbir Singh**[3]**.**

5. In the result, MACMA is allowed in part reducing the interest from 9% per annum to 7.5% per annum. There shall be no order as to costs.

Miscellaneous petitions if any, shall stand closed.

T.AMARNATH GOUD,J

Date: 27.08.2019
Kvrm

[2] (2003) 2 SCC 223
[3] 2013 ACJ 1403.