

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

MACMA NO. 112 OF 2013

JUDGMENT:

This appeal is directed by the injured claimant against the order and decree dated 29.09.2012 passed in M.V.O.P.No.63 of 2010 by the III Additional District and Sessions Judge, FTC, Medak (for short 'the Tribunal), whereby the tribunal granted compensation of Rs.3,88,053/- with costs and interest @ 7.5% per annum from the date of petition till the date of realization in a motor vehicle accident occurred on 19.05.2006, as against the claim of Rs.5,00,000/- filed under Section 163-A of the Motor Vehicles Act, after examining PWs.1 to 3 and marked ex.A.1 to A.7 on behalf of the claimant and that RWs.1 to 3 were examined and marked Exs.B.1 to B.3, on behalf of the respondents.

2. A perusal of the material available on record and having regard to the facts and circumstances of the case, the order passed by the tribunal in awarding compensation towards grievous injuries is just and proper and needs no interference of this Court. The Apex Court in **United India Insurance Company Limited v Sunil Kumar and another**¹ categorically held that "if an insurer was permitted to raise a defence of negligence under Section 163A of the Act, it would "bring a proceeding under Section 163A of the Act at par with the proceeding under Section 166 of the Act which would not only be self contradictory but also defeat the very legislative intention". Consequently, it was held that in a

¹ 2017 AIR (SC) 5710

proceeding under Section 163A of the Act, the insurer cannot raise any defence of negligence on the part of the victim to counter a claim for compensation."

3. In view of the above, the appeal filed by the Insurance Company is dismissed confirming the order and decree dated 29.09.2012 passed in M.V.O.P.No.63 of 2010 by the III Additional District and Sessions Judge, FTC, Medak. There shall be no order as to costs.

Miscellaneous petitions if any, shall stand closed.

Date: 21-11-2019
kvrn

T.AMARNATH GOUD,J

