

THE HON'BLE SRI JUSTICE A.VENKATESHWARA REDDY

MACMA Nos.1315 of 2014, 1379 of 2014, 1397 of 2014

and

CRP Nos.2959 of 2007, 5738 of 2006

COMMON JUDGMENT:

All the above MACMAs and CRPs are filed by the United India Insurance Company Limited assailing the common order dated 30.07.2005 in MATOP Nos.936 of 2001, 937 of 2001, 938 of 2001, 939 of 2001 and 940 of 2001 before the learned IV Additional District Judge-cum-Motor Accident Claims Tribunal (MACT), Khammam, accordingly, it is proposed to dispose of all these matters through this common judgment.

2. Learned IV Additional District, Khammam, as per the orders dated 30.07.2005 has allowed all the above MATOP Nos.936 of 2001 to 940 of 2001.

In MATOP No.936 of 2001 an amount of Rs.1,90,000/- towards general and special damages with interest @ 9% per annum from the date of petition till the date of realization was awarded in favour of the petitioner and against the respondent No.1 to 3 therein;

In MATOP No.937 of 2001 an amount of Rs.16,500/- towards general and special damages with interest @ 9% per annum from the date of petition till the date of realization was awarded in favour of the petitioner and against the respondent No.1 to 3 therein;

In MATOP No.938 of 2001 an amount of Rs.9,500/- towards general and special damages with interest @ 9% per annum from the date of petition till the date of realization was awarded in favour of the petitioner and against respondent Nos.1 to 3 therein;

In MATOP No.939 of 2001 an amount of Rs.86,000/- towards general and special damages with interest @ 9% per annum from the date of petition till the date of realization was awarded in favour of the petitioner and against respondent Nos.1 to 3 therein; and

In MATOP No.940 of 2001 an amount of Rs.8,000/- towards general and special damages with interest @ 9% per annum from the date of petition till the date of realization was awarded in favour of the petitioner and against respondent Nos.1 to 3 therein;

Thus in all MATOP Nos.936 of 2001 to 940 of 2001 compensation as indicated above was awarded directing the respondent Nos.1 to 3 therein for payment of the said amount towards general and special damages with interest at 9% per annum from the date of petition till the date of realization.

3. Assailing the said awards CRP Nos.2959 of 2007, 5738 of 2006, MACMA Nos.1315 of 2014, 1379 of 2014 and 1397 of 2014 are filed.

4. On perusal and upon hearing learned counsel on both sides, the common grounds on which the order impugned is assailed are that (i) the driver of the Jeep bearing No.AP 20 T 3618 was only having light motor vehicle driving licence, he is not authorized to drive the jeep and (ii) that the rate of interest awarded is 9% P.A. and requested to reduce the rate of interest to 7.5% per annum.

5. Per contra, learned counsel for the respondents/claimants would submit that the Tribunal has awarded only meagre amount, unfortunately no

counter claim is made by the claimants, in these days the Hon'ble Supreme Court is awarding interest at 12% per annum and awarding the rate of interest at 9% is justified.

6. The brief averments of all these cases are that the claim petitioners in all MATOP Nos.936 of 2001 to 940 of 2001 were travelling in auto rickshaw bearing No.AP 20 U 5426 to Peddammagudi near Palvoncha to perform Pooja. While they were returning, in the outskirts of Mettagudem Village between Manuguru and Palvoncha Jeep bearing No.AP 20 T 3618 came in opposite direction in a rash and negligent manner and dashed the auto rickshaw thereby the inmates of the jeep as well as the inmates of auto rickshaw bearing No.AP 20 U 5426 sustained injuries and one person viz. Jokanti Satyanarayana succumbed to the injuries on the same day at Government Hospital, Bhadrachalam, based on the report lodged, a case in Crime No.63 of 2000 under Sections 304A and 337 of Indian Penal Code (for short 'IPC') was registered. All the claimants in MATOP Nos.936 of 2001 to 940 of 2001 have sustained injuries. Though they have filed different petitions claiming compensation,

all these petitions were disposed of through common order dated 30.07.2005. Assailing the common orders, as stated supra, two civil revision petitions and three MACMA cases, as indicated above, are filed by the Insurance Company.

7. As per the grounds of revision and grounds of appeal in these CRPs and MACMAs and the submissions made by the learned counsel on both sides, the revision petitioners/appellants are contesting these matters mainly on two grounds viz. the driver of the Jeep bearing No.AP 20 T 3618 was not having valid driving licence, he was holding light motor vehicle licence and that he is not authorized to drive the jeep. Secondly the rate of interest awarded by the Tribunal is 9% per annum and also requested to reduce the same to 7.5% per annum.

8. In this context, I may refer to the judgment of the Hon'ble Supreme Court in **Mukund Dewangan Vs. Oriental Insurance Company**¹ wherein, in paragraph No.60, 60.1 and 60.2 the Apex court held as under :

“60. Thus we answer the questions which are referred to us thus:

¹ 2017 (14) scc 663

60.1 'Light motor vehicle' as defined in section 2(21) of the Act would include a transport vehicle as per the weight prescribed in section 2(21) read with section 2(15) and 2(48). Such transport vehicles are not excluded from the definition of the light motor vehicle by virtue of Amendment Act No.54/1994.

60.2 A transport vehicle and omnibus, the gross vehicle weight of either of which does not exceed 7500 kg. would be a light motor vehicle and also motor car or tractor or a road roller, 'unladen weight' of which does not exceed 7500 kg. and holder of a driving licence to drive class of "light motor vehicle" as provided in section 10(2)(d) is competent to drive a transport vehicle or omnibus, the gross vehicle weight of which does not exceed 7500 kg. or a motor car or tractor or road-roller, the "unladen weight" of which does not exceed 7500 kg. That is to say, no separate endorsement on the licence is required to drive a transport vehicle of light motor vehicle class as enumerated above. A licence issued under section 10(2)(d) continues to be valid after Amendment Act 54/1994 and 28.3.2001 in the form".

9. When the facts of the cases on hand are tested on the touchstone of the principles laid in the above decision, the weight of the jeep, stated above, does not exceed 7500 Kgs., and the holder of light motor vehicle

driving licence is entitled to drive the jeep pursuant to the licence issued under the Motor Vehicle Act. Therefore, either a transport vehicle or a jeep the gross weight of which does not exceed 7500 kgs., would be a light motor vehicle and the holder of the driving licence to drive a light motor vehicle is competent to drive such a jeep.

10. On a copious reading of the order impugned, it is true though all the claim petitioners in O.P.Nos.936 of 2001 to 940 of 2001 sustained injuries, the Tribunal has awarded only a meagre amount of compensation with interest at 9% per annum. However, no cross appeal is filed by any of the claimants. Therefore, in the above factual matrix I do not find any justification in the request made by the revision petitioner/appellant/insurance company for reduction of interest from 9% to 7.5% per annum. Further on over all consideration of facts and circumstances of the case, nature of the injuries sustained by the claimants in O.P.Nos.936 of 2001 to 940 of 2001 amount of damages / compensation awarded by the Tribunal, this Court does not find any reason to interfere with the common order impugned dated 30.07.2005 in

MATOP Nos.936 of 2001, 937 of 2001, 938 of 2001, 939 of 2001 and 940 of 2001 before the learned IV Additional District Judge-cum-Motor Accident Claims Tribunal (MACT), Khammam and it is sustained.

11. In the result, CRP Nos.2959 of 2007, 5738 of 2006, MACMA Nos.1315 of 2014, 1379 of 2014 and 1397 of 2014 are dismissed confirming the common order impugned dated 30.07.2005 in MATOP Nos.936 of 2001, 937 of 2001, 938 of 2001, 939 of 2001 and 940 of 2001 on the file of the learned IV Additional District Judge-cum-Motor Accident Claims Tribunal (MACT), Khammam in entirety.

However, in the circumstances of the case, there shall be no order as to the costs. As a sequel, miscellaneous applications, if any pending, shall stand closed.

A.VENKATESWHARA REDDY, J

Dated : 05-12-2022
Abb