

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA MP No.8283 of 2012

IN/AND

MACMA No.2696 OF 2015

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ORDER:

The claimant is the appellant. He filed O.P.No.924 of 2004 on the file of III Additional Sessions Judge (F.T.C.), Nizamabad, for the injuries sustained by him in the accident on 19.02.2004 due to the rash and negligent driving of the lorry bearing No.AP 10 T 1901 of the 1st respondent insured with the 2nd respondent, under Section 166 of the Motor Vehicles Act for Rs.4,00,000/- and the tribunal having found that it was the result of rash and negligent driving of the driver of the said lorry of the 1st respondent insured with the 2nd respondent. On issue No.2 regarding entitlement of quantum for the fracture he sustained as per Ex.A3-wound certificate of bi-lateral fracture superior and inferior pubic rami and treated conservatively, initially having been admitted in Government Hospital, Kamareddy having been referred to NIMS Hospital there from that date of accident till 04.03.2004 and discharged thereafter without even conducting any operation for the said fracture that is only injury. PW.2 is the Doctor of NIMS, who deposed by the time the patient was admitted, he was having urinary catheter and a perusal of further evidence of PW.2 with reference to case sheet, Ex.C1 and discharge summary, Ex.A4 show his main treatment is urinary catheter. There is nothing to show any injury to the urinary tract region or it is outcome of the injuries sustained in the accident even for the claim by the petitioner of one year for every week thrice he was attending and treating in NIMS for that urinary tract problem while incurred huge amount including by travelling in a car from his native village to NIMS, Hyderabad even to show there is 30% disability there from PW.2 orally for nothing found place in Ex.A3-wound certificate and Ex.A4-discharge summary, the trial Court rightly not taken. However, awarded Rs.50,000/- compensation with interest at 7.5% p.a. by award dated 26.02.2010. The said quantum is now impugning in the appeal, with a delay of 473 days..

2. Heard and perused the material on record.

3. The appeal against the 1st respondent dismissed for default on 30.03.2015. However, the fact remains he remained exparte before the tribunal and there from it is the submission referring to **Meka Chakra Rao vs Yelubandi Babu Rao @ Reddemma** that even not necessary party to the appeal and thereby impleaded no way fatal to the maintainability of the appeal from such dismissal. The same is recorded.

4. It is at the request of both the parties, while allowing the delay condonation application and directing the Registry to number the appeal if other wise in order, taken up the appeal for final hearing.

5. From the factual matrix supra what the tribunal awarded of Rs.50,000/- including for fractured injury and the treatment as in-patient and also for the attendant charges and transport charges extra nourishment loss of earnings and medical bills, it requires enhancement from Rs.50,000/- to Rs.60,000/-.

6. Accordingly, the appeal is partly allowed. There is no order as to costs.

7. Miscellaneous petitions, pending if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:24-11-2015

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