

**THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO**

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**M.A.C.M.A.No.1747 of 2005**

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**JUDGMENT:**

This appeal is preferred by the claimant against the award dated 20.08.2004 in M.V.O.P.No.179 of 2002 on the file of the Motor Accident Claims Tribunal – cum – I Additional District Judge, Kadapa, seeking enhancement of compensation for the injuries sustained by him in a motor accident that occurred on 22.06.2001. The accident occurred when he was sleeping on a cot away from the road opposite to his house in the vacant place by tying his bulls to the cart. At about 5.00 am, the driver of the tractor bearing No.AP 04 T 6139 drove the tractor in a rash and negligent manner and hit the bull cart and also the claimant, causing spine injury and fracture to his right shoulder.

The Tribunal, on evidence, held that the accident occurred due to the rash and negligent driving of the tractor by its driver. The wound certificate produced by the claimant under Ex.A3 showed the following injuries:

1. Pain in the neck
2. Pain and tenderness in the right shoulder
3. Quadriperisis present

Though the claimant claimed that he was a carpenter, in the absence of any evidence, that claim was not accepted. The yearly income of Rs.15,000/- as a casual labourer was taken into account and since he was aged about 52 years as on the date of the accident, the multiplier of 11 was applied and an amount of Rs.33,000/- was calculated as loss of income. Rs.2,000/- was awarded towards medicines and transport. In all, an amount of Rs.35,000/- was awarded.

In my view, the Tribunal should have taken the monthly income at Rs.1,500/- instead of Rs.15,000/- per annum. If the monthly income of Rs.1,500/- is taken into account and the same multiplier is applied, the compensation would come to Rs.39,600/-. The claimant was hospitalized for a considerable period and an amount of Rs.2,000/- was awarded. No amount was awarded for the pain and suffering suffered by the claimant. An amount of Rs.3,400/- can be awarded for pain and suffering, and thus, in all, the claimant is entitled for a sum of Rs.45,000/- instead of Rs.35,000/- awarded by the Tribunal.

In the result, this appeal is partly allowed modifying the award awarding an amount of Rs.45,000/- along with interest at 9% per annum on the enhanced compensation from the date of the petition till realization. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

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**(A.RAMALINGESWARA RAO, J)**

05.11.2015

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