THE HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO

C.M.A. No. 2183 of 2004

JUDGMENT:

The 2nd respondent—Insurance Company preferred the appeal aggrieved by the order/award in O.P.No.718 of 2001 on the file of Motor Accidents Claims Tribunal – cum – Additional District Judge, Adilabad (for short, 'Tribunal') awarding compensation of Rs.84,871/- with interest at 9% p.a. against the claim of Rs.1,00,000/- in the claim petition under Section 166 (1) (A) of the Motor Vehicle Act, 1988 (for short, 'the Act').

2. Heard learned standing counsel for appellant—insurer (R-2 before the Tribunal) and learned counsel for respondent—claimant. Respondent No.2—owner of the vehicle was unserved for the reasons of absent continuously, which is a sufficient service, hence the same is recorded as per Section 27 of General Clauses Act. Perused the material on record. The parties hereinafter are referred to as arrayed before the Tribunal for the sake of convenience in the appeal.

3. The contentions in the grounds of appeal as well as oral submissions of learned counsel for appellant/ insurer are that, the Tribunal gravely erred in awarding the compensation excessively so also rate of interest exorbitantly, hence to set aside the award fixing joint liability.

4. Whereas it is the contention of the learned counsel for claimant that the award of the tribunal is just and nothing to interfere and hence to dismiss the appeal.

5. Now the points that arise for consideration are:

1. Whether the compensation awarded by the Tribunal is excessive and exorbitant and so also to reduce the rate of interest and with what observations and to what extent?

2. To what result?

Point No.1:

6. There is no dispute with regard to the manner of accident and the injuries sustained by the claimant, which includes one fracture and five injuries. No doubt, there is no doctor evidence to say that there is 20% disability but for Ex.A10 the so called disability certificate filed to give any credence to it. Even there from taking into consideration what the Tribunal awarded of Rs.84,871/- since excessive reduced to Rs.70,000/-.

7. Coming to rate of interest, the Tribunal awarded at 9% per annum from the date of claim petition till the date of realization, which is highly excessive and exorbitant reduced to 7.5% per annum from the date of appeal till the date of realisation as per the settled expressions in ***TN Transport Vs. Raja Priya*** and ***Rajesh Vs. Rajbir Singh.*** Accordingly, the Point-1 is answered.

Point No.2

9. In the result, the appeal is partly allowed by reducing the compensation from Rs.87,871/- to Rs.70,000/- (Rupees seventy thousand only) and the rate of interest from 9% per annum to 7.5% per annum, from the date of appeal till realization/ deposit with notice. If any of the amount has already been deposited, the insurer and owner of the vehicle are directed to pay or deposit the remaining amount of compensation within one (1) month from the date of receipt of a copy of the judgment, failing which the claimant can execute and recover. There is no order as to costs.

10. Miscellaneous Petitions, pending if any in this appeal, shall stand closed.

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Dr.B.SIVA SANKARA RAO, J

Date:17.04.2015

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THE HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO

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