

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

C.M.A.No.1033 of 2004

JUDGMENT :

The injured-claimant, in the claim petition, filed this appeal having been aggrieved by the Order/Award of the learned Chairman of the Motor Accidents Claims Tribunal–cum-V Additional District Judge, Tirupati (*for short, 'Tribunal'*) in M.V.O.P.No.413 of 2000 dated 20.01.2004, awarding compensation of Rs.46,500/- (Rupees Forty Six thousand Five hundred only) with interest at 9% per annum as against the claim of the claimant of Rs.1,50,000/-(Rupees One lakh fifty thousand only), in the claim petition under Section 166 of the Motor Vehicle Act, 1988 (*for short, 'the Act'*).

2. Heard. 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 by the appellant-injured are that, the Tribunal gravely erred in not considering Ex.A-3 issued by P.W-2 who also deposed in support of it, the petitioner suffers with permanent disability of 15% and went wrong in not taking the proper multiplier in arriving the proper multiplicand hence to allow the claim as prayed. Whereas, it is the contention of the learned counsel for the respondent-insurer that but for the rate of interest is excessive to reduce from 9% p.a. to 7.5% p.a. there is nothing to interfere with the quantum of compensation arrived by the Tribunal for no any disability; even the Tribunal went wrong in saying the same permanent disability which is without basis, for no cross-objections to interfere against the quantum arrived, but for to set aside the finding and beyond for nothing to interfere seeks to dismiss the appeal.

5. Now the points that arise for consideration in the appeal are:

1. *Whether the quantum of compensation is utterly low to enhance, if so, with what amount and with what observations?*
2. *To what result?*

POINT-1:

6. There is no dispute on the manner of accident and liability of the insurer

covered by Ex.B-1 of the policy of the 1st respondent involved in which the petitioner sustained the injuries, but for on the quantum. Now, coming to the quantum of compensation, even as per Ex.A-2 wound certificate issued by the RUIA hospital, Tirupati for no basis, even to P.W-2 of Pooja hospital for giving Ex.A-3 for never treated the petitioner muchless in giving any disability certificate obtained any X-ray and referring to the same for saying limitation of the movements of 10% of Flexion of knee; suffice to ignore said permanent disability of any percentage there from, when Ex.A-2 clearly proves that as many as 7 injuries the petitioner sustained which are described as grievous of which one is a compound fracture of tibia and fibula of left leg and another fracture to the left arm, even the treatment in RUIA hospital is free of cost, it is just to award including for said seven injuries of which one is a compound fracture and another is a single fracture and for medical expenses, treatment, attendant charges, transport charges, loss of earnings in all Rs.75,000/- is the just compensation to award by enhancing from Rs.46,500/- however, by reducing the rate of interest from 9% p.a. to 7.5% p.a. Accordingly, point No.i for consideration is answered.

POINT No.2:

8. In the result, the appeal is partly allowed by enhancing the compensation from Rs.46,500/- to Rs.75,000/- and by reducing the rate of interest from 9% p.a. to 7.5% from the date of petition till the date of realization. There shall be no order as to costs.

9. Miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 02-04-2015

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