

C.M.A.No.1165 OF 2004

JUDGMENT:

The injured claimant in M.V.O.P.No.119 of 1999 filed under Section 166 of the Motor Vehicle Act,1988 (*for short, 'the Act'*),on the file of the learned Chairman of the Motor Accidents Claims Tribunal-cum-III Additional District Judge, at Guntur(*for short, 'Tribunal'*), for the claim of Rs.1,00,000/- for the injuries sustained by him in the accident dated 14.12.1998, caused by the crime auto belongs to the 1st respondent insured with the 2nd respondent since granted Rs.3,000/- by fixing joint liability against both the respondents (owner and insurer of the crime auto bearing No.AP-16W-6618) by award dated 8.10.2002, having been aggrieved by the same, preferred this appeal with the contentions in the grounds of appeal as well as submissions during the course of hearing that the compensation awarded by the tribunal is utterly low, that the tribunal ought to have granted the compensation as prayed for as observed that the accident was occurred due to rash and negligent driving of the driver of the auto, that the tribunal erred in observing that there is no fracture injury, hence to set aside the award and grant compensation as prayed for.

2. Whereas, it is the contention of the learned counsel for the contesting 2nd respondent-Insurer of the claim petition as well as the appeal that for this Court while sitting in appeal there is nothing to interfere with the award of the tribunal, hence to dismiss the appeal.

3. Perused the material on record. The parties hereinafter are referred to as arrayed before the Tribunal for the sake of convenience in the appeal.

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

1. *Whether the compensation awarded by the Tribunal is unjust and utterly low and requires interference by this Court while sitting in appeal against the award and if so with what compensation, what rate of interest and with what observations?*

2. *To what result?*

POINT-1:

5. There is no dispute as to the manner of the accident but for quantum of compensation. Ex.A.3 wound certificate clearly speaks that the injured sustained 4 injuries of which three are simple and one is grievous i.e. lacerated wound of 12x 6x1 cm. over medial side of left knee joint. Thus, taking into consideration of the same, Rs.10,000/- for the lacerated wound, Rs.6,000/- for the three simple injuries(each Rs.2,000/-), Rs.2,000/- towards medical expenses and Rs.2,000/- towards loss of earnings, attendant and transport charges in all of Rs.20,000/- is just to award. Hence, the compensation of Rs.3,000/- awarded by the tribunal is enhanced to Rs.20,000/- by reducing rate of interest from 9% to 7.5% p.a.as per the settled expressions of Apex Court in **TN Transport Corporation v. Raja Priya**, and **Rajesh** (supra), in which it is held that there is steep fall in the bank interest rate for the past several years which is to be kept in mind while awarding interest and awarded therefrom at 7.5% p.a. as reasonable. The appellate Court also got the discretionary power under Order LXI Rule 33 C.P.C to award reasonable rate of interest from the drastic fall in bank rate of interest in bank rate as laid down by the Apex Court in **DDA Vs. Joginder S. Monga**. Accordingly, Point No.1 is answered.

POINT No-2:

6. In the result, the appeal is partly allowed by enhancing the compensation from Rs.3,000/- to Rs.20,000/- by reducing the rate of interest from 9% to 7.5% p.a. from date of the claim petition till realization/deposit with notice. The respondents are directed to deposit the amount, within one month from the date of receipt of judgment. Failing which the claimant can execute and recover. On such deposit or execution and recovery, the claimant is permitted to withdraw the same. There is no order as to costs in the appeal. Consequently, 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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