

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

C.M.A.No.1450 OF 2004

JUDGMENT:

The 2nd respondent-Insurer among the two respondents including owner of the tourist bus bearing No.API 6991 in O.P.No.575 of 2000 on the file of the learned Chairman of the Motor Accidents Claims Tribunal–cum-Additional District Judge, Adilabad (*for short, 'Tribunal'*), filed under Section 166 of the Motor Vehicle Act, 1988 (*for short, 'the Act'*), by the claimant for the claim of Rs.1,00,000/- (Rupees one lakh only) for the injuries i.e. fracture of pubic bone, injury on left shoulder, chest and other parts of the body he sustained in the accident caused by the crime vehicle while proceeding in auto bearing No.AP 15/T-432, since granted Rs.73,000/- with interest at 9%p.a. fixing joint liability including the Insurer; preferred this appeal impugning the award of the tribunal dated 23.04.2003, 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 highly excessive and exorbitant without support of medical evidence and valid legal basis, hence to set aside the award by allowing the appeal.

2. Whereas, it is the contention of the learned counsel for the claimant, from the 1st respondent of the claim petition-owner of the crime vehicle who remained *ex parte* before the tribunal did not turn up in spite of service of notice, taken as heard, that the award of the tribunal holds good and requires no interference by this Court by sitting in appeal to reduce quantum of compensation and rate of interest but for no cross-objections to enhance, 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 as well as rate of interest awarded by the tribunal is excessive and exorbitant and the same is unsustainable and requires interference by this Court while sitting in appeal, if so, what is the just compensation and what observations?*

2. To what result?

Point No.1:

5. On perusal of the evidence on record, it clearly establishes that the accident was the result of the rash and negligent driving of the driver of the crime vehicle which is not in dispute but for the quantum of compensation and rate of interest.

6. Now coming to the quantum of compensation, as per Ex.A.3 wound certificate, out of 4 injuries, the injuries 1 and 2-the fracture of left shoulder and superior pubic bone are grievous in nature and injury No.3 a lacerated left scalp and injury No.4 a contusion on left eye brow are simple in nature. The tribunal after careful scrutiny of the evidence available on record including Ex.A.5 medical bills awarded compensation under various heads just and reasonably which requires no interference by this Court while sitting appeal except to confirm the quantum by reducing the rate of interest from 9% p.a. to 7.5% p.a. as per settled expressions in **TN Transport Corporation v. Raja Priya, and Rajesh** (supra), as held that the 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:

7. In the result, the appeal is partly allowed while confirming the compensation but reducing the rate of interest from 9% to 7.5% p.a. from the date of petition (MVOP) till realization/deposit with notice. Rest of the award holds good. 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

VVR