

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A. No.225 of 2005

JUDGMENT:

Notices sent by the petitioner earlier pursuant to the direction of this Court on 02.01.2012 were returned unserved. Notices were sent to the addresses mentioned in M.O.P.No.75/2002. So far as the driver of bus is concerned, it was returned as no such addressee. In respect of the owner-second respondent, it was returned to the sender as refused. This Court also in the order dated 02.01.2012 stated that if a notice was sent to the address mentioned in the cause title in M.O.P., it was deemed to have been served. In view of the same, the second respondent is deemed to have been served.

This appeal is filed by the injured claimant seeking enhancement of compensation. The appellant filed M.O.P.No.75/2002 claiming compensation of Rs.4 lakhs for the injuries sustained by him in a motor accident that occurred on 23.08.2001 at about 6.00 P.M. when the appellant along with one Borubilli Appalaswamy was proceeding on motor cycle and when they reached near Narava junction, a city bus bearing registration No.AP 35T 1519 came in the opposite direction, which resulted in injuries to the appellant. The Tribunal came to the conclusion that the accident occurred not only due to negligence on the part of first respondent, but the petitioner also contributed his negligence to some extent.

As per Ex.A2-Wound Certificate, the appellant sustained one grievous injury, which was described as deformity and swelling of left leg. PW2-Doctor, who treated the appellant, stated that the skeletal traction and POP application was done and the petitioner was discharged on 22.10.2001. The Doctor also opined that the appellant cannot walk long distance and cannot run and he cannot squat on the ground. The disability of the appellant was assessed at 30% partial and permanent by the District Medical Board, which issued Ex.A6 certificate. The appellant was aged about 50 years as on the date of accident. The Tribunal taking into consideration the disability and the Wound Certificate awarded an amount of Rs.35,000/- towards partial and permanent disability,

Rs.5,000/- towards pain and suffering, Rs.60,000/- towards medicines, transport to hospital and extra nourishment. Though totally an amount of Rs.1.00 lakh was awarded, in view of the contribution of the appellant for the accident, 20% was deducted and ultimately an amount of Rs.80,000/- was awarded along with interest @ 9% per annum from the date of petition till realisation. Challenging the same, the present appeal was filed by the appellant.

The accident was proved and the Tribunal held that the petitioner himself contributed to some extent to the accident, and accordingly assessed his contribution at 20%. The disability of the appellant was assessed at 30%. Under different heads the Tribunal awarded an amount of Rs.1.00 lakh and deducted 20% of the said amount as the petitioner was also negligent, and awarded an amount of Rs.80,000/- as stated above. The award of the Tribunal is supported by exhibits A6 and A9. There is no evidence to warrant interference with the award of Tribunal and enhancement of the same.

In view of the above, the Appeal is dismissed confirming the award of the Tribunal in M.O.P.No.75/2002. There shall be no order as to costs.

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

A.RAMALINGESWARA RAO, J

03.11.2015

MVA

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Date: 03.11.2015

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