

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

C.M.A.No.781 of 2004

JUDGMENT :

The Petitioner-injured, 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-IV Additional District Judge, East Godavari at Kakinada, (*for short, 'Tribunal'*) in M.V.O.P.No.284 of 1999 dated 11.06.2003, awarding compensation of Rs.10,000/-(Rupees ten thousand only) with interest at 9% per annum as against the claim of the claimant of Rs.60,000/-(Rupees Sixty thousand only), in the claim petition under Section 166 of the Motor Vehicle Act, 1988 (*for short, 'the Act'*).

2. Heard Sri N.Siva Reddy, the learned counsel for the appellant-Petitioner and Sri Srinivasa Rao Vutla, the learned standing counsel for insurance company. 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 that the Tribunal should have granted full compensation as claimed by her having regard to the fact that she sustained multiple injuries and fracture to her right leg, that the tribunal below having held that the accident was occurred due to rash and negligent driving of the 1st respondent and having found that the appellant was injured in that accident should have granted full compensation, that the tribunal below failed to consider that the appellant is also doing tailoring work and business in Appadams and earning an amount of Rs.2,000/- per month, that the Tribunal below grossly erred in granting only an amount of Rs.1,000/- for the simple injuries each and Rs.5,000/- for the grievous injuries, that the Tribunal below failed to see that the pain and suffering and mental agony of the appellant is more and it should have granted full claim, that the tribunal below failed to

appreciate the evidence of P.W-2, who is a Government Civil Surgeon in correct perspective and prayed to allow the appeal as prayed for. During the course of arguments, the learned counsel for the appellant reiterated the same. Whereas the learned standing counsel for the insurer contended that the Tribunal rightly granted the compensation by looking into all aspects of injuries sustained by the petitioner in the accident and more so, the rate of interest awarded by the Tribunal has to be reduced and there is nothing to interfere in the award passed by the Tribunal muchless to reduce and prayed to dismiss the appeal with costs.

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

1. *Whether the quantum of compensation awarded by the Tribunal is unjust and requires interference, if so with what amount and with what observations?*
2. *To what result?*

POINT-1:

5. The facts that the date of accident, rash and negligent driving of the driver of the crime vehicle and dashed against the claimant, as a result of which she sustained injuries are proved from the material on record and no way requires interference in the appeal.

6. Coming to the compensation awarded by the tribunal, as per the evidence of P.W-2, Government doctor, N.V.Ramana Rao supported by Ex.X-1 case sheet the injured claimant sustained fracture on right humerus besides two lacerated wounds on the right side of head and right thigh. Even the injuries healed well including the fractures as per the said evidence with no disability and the treatment is free of cost, an amount of Rs.20,000/- towards compensation for fracture of right humerus, Rs.4,000/- each to the two (simple) lacerated wounds, Rs.12,000/- towards medical expenses, loss of earnings, attendant charges, transport charges and extra nourishment, which in total comes to Rs.40,000/- towards compensation, which is just and to enhance.

7. Coming to the rate of interest, from the settled proposition of law in **TN Transport Corporation v. Raja Priya**^[1], and **Rajesh v. Rajbir**

Singh^[1]^[2]; that while awarding reasonable rate of interest the steep fall in the bank interest rate since past several years has to be kept in mind, interest 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**^[3]. Thus under Section 171 of the MVAct interest is awarded at 7.5% per annum from date of claim petition till realization. Accordingly, Point-1 for consideration is answered.

POINT No.2:

8. In the result, the appeal is partly allowed by enhancing the compensation from Rs.10,000/- to Rs.40,000/- 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: 02-02-2015

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^[1] (2005) 6 SCC 236

^[2] 2013(4)ALT 35(SC)

^[3] (2004)2 SCC-297