

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

MACMA MP No.456 of 2010 in MACMA No.2899 of 2015
& MACMA No.2899 of 2015

COMMON ORDER :

Heard the learned counsel for the appellant in un-numbered appeal vis-à-vis delay condonation petition and also the learned counsel for the 3rd respondent insurer for the other respondents who remained exparte before the Tribunal, even impleaded in the appeal and dismissed for default, no way fatal vide decision in **M.Chakradhara Rao v. Y.Baburao**^[1]. Same is recorded. The delay is condoned subject to condition that the appellant is not entitled to the interest on the enhanced amount, if any, till date. The reason assigned for the delay that due to financial difficulty in securing funds and at request of both sides, heard the main appeal itself. Undisputedly, the manner of accident was that while the tractor was stopped in the mud, the petitioner was asked to start along with other persons pushing the tractor and in that course, he sustained the injuries, the Tribunal having so found fixed 75% contribution on the part of the injured and 25% only on the part of the driver of the tractor. In fact, as can be seen from the record, it is he that was called among others to push the tractor but for that, he could not sustain the injuries. Leave it apart, but for equal contribution, the question of the vehicle running over does not arise. Having regard to the above, it is just to

fix equal contribution on both injured vis-à-vis driver of the vehicle of the respondent Nos.1 and 2 insured with 3rd respondent. So far as the quantum arrived by the Tribunal, there is no dispute.

2) Having regard to the above and in the result, the appeal is partly allowed by modifying the liability from 25% to 50% liability and by enhancing the quantum of compensation from Rs.30,750/- to Rs.61,500/-. However, on the enhanced amount, the claimant is entitled interest only from today till the date of realization. There is no order as to costs.

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

Dr. B. SIVA SANKARA RAO, J

30.12.2015

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[\[1\]](#) 2001(1)ALT 495 DB