

**HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO**

**C.M.A.No.1611 OF 2004**

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**JUDGMENT:**

The appeal is filed by the injured claimant, having been aggrieved by the award dated 21.01.2004 passed by the Motor Accidents Claims Tribunal–cum-District Judge, Karimnagar (*for short, 'Tribunal'*) in O.P.No.248 of 2000 dated 19.04.2006, awarding compensation of Rs.4,62,000/- (Rupees four lakhs sixty two thousand only) with interest 9% per annum from the date of claim petition till the date of payment against the claim of Rs.8,50,000/- against the respondents, impugning the quantum of compensation is utterly low and unjust and unreasonable.

2. Heard learned counsel for appellant and learned standing counsel for Insurance Company. The respondents 4 and 5 are only formal parties. Despite service of notice respondents 1 and 2 did not chose to appear hence taken as heard. 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 that the award of the Tribunal is contrary to law, weight of evidence, probabilities of the case and the Tribunal gravely erred in not considering the injuries sustained by the claimant and 60% disability sustained by him and he cannot continue his profession, thereby, prayed to enhance the claim and learned counsel for the appellant reiterated the same.

4 . Learned Standing counsel for Insurance Company contended that the award of the Tribunal is just and while sitting in appeal for this Court there is nothing to interfere with regard to the quantum of compensation, hence to dismiss the appeal.

5. Now the points that arise for consideration are as under:

1. *Whether the quantum of compensation awarded by the tribunal is utterly low and if so requires with what compensation, with what rate of interest and with what observation?*
2. *To what result?*

**Point No.1:**

6. On perusal of the material available on record would show that there is no dispute regarding the manner of accident and 60% disability. It is no doubt the case of the petitioner that the petitioner is practically impaired because of the said physical disability for shortening of the right lower limb only by one inch with stiffness of right knee. Even for that 60% disability taken by the Tribunal is otherwise excessive.

The fact remains that for the other injuries what the Tribunal awarded of Rs.30,000/- towards pain and suffering requires enhancement to Rs.50,000/- and a future amount of Rs.13,000/- towards transport charges, attendant charges, and loss of earnings. Thus, in all it comes to Rs.4,95,000/-.

7. Coming to rate of interest, the Tribunal awarded at 9% per annum from the date of claim petition till the date of realization, which is highly excessive and exorbitant reduced to 7.5% per annum from the date of appeal till the date of realisation as per the settled expressions in ***TN Transport Vs. Raja Priya*** and ***Rajesh Vs. Rajbir Singh***. Accordingly, the Point-1 is answered.

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**Point No.2:**

8. In the result, the appeal is partly allowed by enhancing the compensation from Rs.4,62,000/- to Rs.4,95,000/- (Rupees four lakhs ninety five thousand only), however by reducing the rate of interest from 9% per annum to 7.5% per annum from the date of petition till the date of realization. Rest of the terms of the award holds good. No order as to costs.

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

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**Dr. B. SIVA SANKARA RAO, J**

Date:17-04-2014

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**HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO**

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