

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

C.M.A.No. 1929 of 2004

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JUDGMENT:

The injured claimant of the accident dated 11.02.2001 filed M.V.O.P No.366 of 2001 on the file of learned Motor Accidents Claims Tribunal (District Court) Vizianagaram, (for short, 'Tribunal') under Section 166 of M.V Act (for short 'the Act') for a sum of Rs.3,50,000/- with interest against the driver, owner and insurer of the lorry bearing No.AHJ 5279 as respondents 1 to 3 and after contest, the Tribunal by Award dated 06.06.2003 partly allowed the claim for Rs.1,50,000/- with interest at 9% per annum and impugning the said quantum is utterly low, the claimant maintained the appeal with the contentions in the grounds of appeal that the award of the Tribunal is contrary to law, and weight of evidence, probabilities of the case and the compensation awarded by the Tribunal is utterly low, unjust and thereby to enhance the compensation as claimed for.

2. The respondents 1 to 3 of the claim petition were arrayed as respondents 1 to 3 of the appeal. It is while pendency of the appeal for default in payment of batta to respondents 1 and 3 the appeal was ended in dismissal on 29.01.2011. Later claimant filed MACMA MP No.4335 of 2014 to condone the delay of 1283 days in filing the set aside petition to restore the appeal and the same was allowed on 13.03.2015 subject to condition of the Insurance Company or the owner are not liable for payment of interest for the period i.e., from the date of dismissal i.e., 29.01.2011 to 13.03.2015.

3. Heard learned counsel for the petitioner. The respondents 1 and 2 not served since remained ex parte before the Tribunal is not pressed being not necessary parties vide **M.Chakradhara Rao v. Yelubandi Babu Rao**^[1]. It is the contention of the learned counsel for the 3rd respondent—insurer that the award of the Tribunal holds good supported by reasons but for to reduce the rate of interest from 9% per annum to 7.5% per annum as per settled expressions on the quantum, there is nothing to interfere and hence to dismiss. 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 are:

1. *Whether the compensation awarded by the Tribunal is utterly low and if so it requires interference by this Court while sitting in this appeal and with what observations and to what extent?*

2. *To what result?*

Point No.1:

5. There is no dispute on the manner of accident was the outcome of rash and negligent driving of 1st respondent driver of the lorry bearing No. AHJ 5279 of 2nd respondent insured with 3rd respondent covered by Ex.B1 policy in dashing the petitioner cyclist while proceeding on the road on the fateful day at about 4 pm near Lord Eswara Temple at Kothavalasa but for the quantum of compensation.

6. Now coming to quantum of compensation, for no proof of earnings of the injured by the date of the accident

occurred on 11.02.2001, the minimum earnings has to be taken as Rs.3,000/- per month as per ***Latha Wadhwa vs. State of Bihar***^[2] and from the age of the injured of more than 25 years, the multiplier ' 17' is applicable as per ***Sarla Verma Vs. Delhi Transport Corporation***^[3] and the permanent disability is 60% for amputation below knee of left leg as per Ex.A5—disability certificate describing the disability when considered the same with reference to Workmen Compensation Act and as there is no question of deduction of personal expenses of the injured; the compensation comes to Rs.3,67,000/- which is 60% of Rs.6,12,000/- (Rs.3,000/- X 12 X 17). Apart from it, Rs.50,000/- is awarded for any requirement of artificial limb, Rs.12,800/- towards medical expenses, treatment, transport and attendant charges, it comes to Rs.4,30,000/- is the just compensation, when the claimant is entitled to subject to payment of deficit court fee then what was claimed of Rs.3,50,000/- under Rule 475 of A.P Motor Vehicle Rules, before the Tribunal.

7. However, coming to the rate of interest as the rate of interest at 9% per annum awarded by the Tribunal is on high side, from the settled proposition of law including from the expressions of the Apex Court in ***T.N.Transport Corp. vs. Raja Priya***^[4] and the latest expression in ***Rajesh vs Rajbir Singh***^[5], the interest is awarded at 7½ % per annum, by modifying and reducing the rate of interest from 9% per annum, from the date of claim petition till 28.01.2011 and again from 14.03.2015 till realization. Accordingly, the Point No.1 is answered.

Point No.2

8. In the result, the appeal is allowed by enhancing the

compensation from Rs.1,50,000/- (Rupees one lakh fifty thousand only) to Rs.4,30,000/- (Rupees four lakhs thirty thousand only) and subject to payment of deficit court fee on Rs.80,000/- before the Tribunal under Rule 475 of A.P M.V Rules, 1989, failing which the claimant is not entitled to execute the award covered in this appeal before the Tribunal, with interest at 7.5% per annum from the date of claim petition till 28.01.2011 and again from 14.03.2015 till realization. In other respects the award of the Tribunal holds good. There is no order as to costs.

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

Dr.B.SIVA SANKARA RAO, J

Date:13.03.2015
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**THE HONOURABLE Dr.JUSTICE B.SIVA SANKARA
RAO**

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

[\[2\]](#) AIR 2001 SC 3218

[\[3\]](#) 2009 ACJ 1298

[\[4\]](#) 2005(6) SCC 236

[\[5\]](#) 2013 (4) ALT 35 (SC)