

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

**MACMA MP No.4757 of 2011 in MACMA No.2725 of
2015 & MACMA No.2725 of 2015**

COMMON ORDER :

The injured claimant of O.P.No.683 of 2005 of the accident dated 17.06.2005 involving the lorry bearing No.AP 28 V 5274 of 1st respondent-injured with 2nd respondent while the injured was proceeding at Jeedimetla as pillion rider of his scooter AP 12 C 5842, claimed from behind dashed as a result, he sustained injuries and the scooter, her son, could escape from injuries. The injuries sustained by her as per Ex.A-3, case sheet, Ex.A-4 discharge summary and evidence of P.W-2 Dr.Athaulah is that she sustained fracture injuries to her ribs on left side and fracture of collar bone, two more injuries, the Tribunal awarded Rs.5,000/- each for two grievous injuries and Rs.1,000/- each for two simple injuries i.e., Rs.12,000/- apart from Rs.40,000/- towards medical expenses, attendant charges and extra nourishment and Rs.1,000/- towards Transport charges, Rs.1,000/- towards loss of earnings and in all, total Rs.60,000/- with interest at 7.5% p.a.

2) The 1st respondent, owner of the accident vehicle remained exparte before the Tribunal, 2nd respondent-insurer only contested and the Tribunal fixed joint liability.

It is impugning the quantum as utterly low, the present appeal is filed with a delay of 672 days, to that extent an application is filed in MA CMA MP No.4757 of 2011 with the reason that as from change of residential address, there is gap in contacting or to reach the correspondence, thereby the delay to be condoned.

3) Though there is no sufficient ground therefrom, the approach has to be adopted is pragmatic, even considering the same from respondent No.1 owner of the vehicle dismissed for default, it is the submission that the 1st respondent remained exparte before the Tribunal also, no way necessary party to the appeal vide **Meka Chakra Rao v. Yelubandi Baburao**^[1]. Same is recorded. Heard and the delay is condoned by directing the registry to number the appeal, otherwise if in order. At request of both sides, the appeal is taken up for hearing and heard.

4) Coming to the merits, what the Tribunal in the claim under Section 166 of the Motor Vehicles Act of Rs.5,000/- each for the two fractured injuries is unsustainable and requires to enhance to Rs.40,000/- from Rs.10,000/-. Thereby, the compensation is to be enhanced from Rs.60,000/- to Rs.90,000/-, however, with interest on enhanced compensation from today by condoning the delay in filing the appeal.

5) In the result, the petition to condone the delay is

allowed and the (un-numbered) appeal is partly allowed by enhancing the compensation from Rs.60,000/- to Rs.90,000/- with interest on the enhanced amount from today only. There shall be no order as to costs.

6) Miscellaneous petitions, if any pending, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

08.12.2015
ksh

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