

THE HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA MP No.125 OF 2012

IN/AND

MACMA No.2701 OF 2015

JUDGMENT:

The injured/ claimant filed claim petition in M.V. O.P. No.206 of 2006 on the file of VIII Additional District Judge (FTC), Chittoor, (for short, 'the Tribunal') for Rs.1,00,000/- under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'), against the rider, owner and insurer of the motor cycle bearing No.AP-03-N-5797, for the injuries sustained in the accident that occurred on 25.11.2005 at about 6.00 P.M. The Tribunal found that the accident was the result of rash and negligent driving of the rider of the bike of R-2 by R-1, insured with R.3.

02. Coming to quantum of compensation, as per the evidence on record, including the evidence of P.W.2, Dr. Y.V. Vinod Kumar of CMC hospital, Vellore, with reference to Ex.A.2 – wound certificate, Ex.A.8 discharge summary, the petitioner was treated first aid at Chittoor Government Hospital and immediately, within no time shifted to Vellore Hospital and discharged on the next day i.e. on 26.11.2005, hardly 24 hours. The petitioner sustained compound fracture of both bones of right leg. Ex.A.9 is the so called permanent disability certificate issued by Dr. R.Purushotham Reddy, placed reliance. He is not the doctor, who treated the claimant. There is nothing either from Ex.A.2 or Ex.A.8, much less from the evidence of P.W.2, that the petitioner sustained any disability, even partially, to give credence to Ex.A.9. Hence, the tribunal rightly ignored. The tribunal, in all, awarded compensation of Rs.65,065/- with interest @ 7.5% per annum, the same is more than just even taken into consideration of pain and sufferance, loss of earnings, attendant charges, transportation charges, medical expenses and extra nourishment. It is, in fact, impugning the said quantum as utterly low, the present unnumbered

appeal is filed with the delay of 117 days.

03. The first respondent/ rider of the bike contested before the Tribunal. However, in the appeal, as well as in delay condonation application, for non payment of fresh batta for service of notice, earlier unserved, dismissed for default on 13.03.2015. No doubt, the owner and insurer are on record. Though rider is not there, delay condoned. Accordingly, MACMA MP No.125 of 2012 is allowed

04. Having heard and coming to the merits, at request, taken up the appeal for final hearing, and discussed supra, once the compensation is more than just, there is nothing to interfere much less to enhance. Hence, the appeal is liable to be dismissed.

05. In the result, the appeal is dismissed for devoid of merits. No costs. Miscellaneous petitions, if any, pending in this appeal shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.01.12.2015
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