

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA MP No.2646 of 2009

IN/AND

M.A.C.M.A.No.2894 of 2015

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ORDER :

The appellant/petitioner herein is the injured claimant, respondents 1 and 2 are the owner and insurer of the van bearing No.KA 06-27.

2. The accident was dated 13.12.2001. The injured/claimant maintained the claim in O.P.No.60 of 2004 on the file of Motor Accidents Claims Tribunal-cum-Additional District Judge, Hindupur, under Section 166 of the Motor Vehicles Act for Rs.1,80,000/-, for the seven injuries he sustained, which includes one fracture to right thigh at the middle 1/3rd and the other abrasions and contusions and from the evidence of PW.4, the injury Nos.2 and 7 though mentioned as abrasion and contusion also referred as grievous since at the forehead and right clavical region and the other are simple. The tribunal rightly disbelieved the disability deposed by PW.3 of 15 to 20% to the injured for no basis nor there is any serial number to the X-ray much less to relate to the injury sustained to correlate any relying Ex.A7-disability certificate and evidence of PW.4 also in this regard for Ex.A7 and X-ray are of the years 2006 November whereas the

injury sustained is in December, 2001 and nothing could be correlated to the so called X-ray and injury and the alleged

disability is outcome of the accident that took place five years ago. However, having considered the same, what the compensation awarded by the tribunal in all of Rs.1,000/- to simple injury, Rs.5,000/- to the grievous injury besides other sums, the same is utterly low in the claim under Section 166 of the Motor Vehicles Act, to say, there is a case on merits to interfere.

3. From this back ground, coming to the delay of 689 days, it is stated in the affidavit filed in support of the petition that the delay is mainly due to poverty. Hence the delay is condoned, subject to condition of not entitled to interest till date.

4. At request of both sides, the appeal is taken up for hearing. Heard and perused the material on record and from what is discussed supra so far as the fracture injury concerned, the claimant is entitled to Rs.25,000/- and Rs.2,000/- each to the simple injury i.e., Rs.12,000/- for six simple injuries, Rs.6,000/- towards loss of earnings for two months, Rs.5,000/- towards attendant, transport charges and extra nourishment, Rs.10,000/- towards medical expenses and in all it comes to Rs.58,000/-.

5. Accordingly and in the result, the appeal is partly allowed by enhancing compensation from Rs.39,000/- to Rs.58,000/- but however the interest at 7.5% p.a. is awarded on the enhanced amount from today i.e., 29.12.2015 only. There is no order as to costs.

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

Dr. B. SIVA SANKARA RAO, J

Date:29-12-2015
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