

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA No.2667 OF 2015

JUDGMENT:

The claimant aged about 45 years preferred this unnumbered appeal aggrieved by the award dated 27.01.2012 passed by the learned Chairman, the Motor Accidents Claims Tribunal(Judge, Family Court-cum-Additional Sessions Judge) Vizianagaram, in M.V.O.P.No.845 of 2009 filed under Section 166 of the Motor Vehicle Act,1988 (*for short, 'the Act'*), for the claim of Rs.2,00,000/- together with interest for sustaining injuries in the accident dated 25.06.2009 caused by the 1st respondent-rider of the crime vehicle(Hero Honda glamour motor cycle bearing No.AP31 AT 4509), after contest the Court below since granted Rs.81,000/- with interest at 7.5% p.a. fixing joint liability against all the respondents (rider, owner and insurer of the crime vehicle respectively) with the contentions in the grounds of appeal that the quantum of compensation is utterly low and the same may be granted as prayed for.

2. The claimant along with the unnumbered appeal filed a petition vide MACMAMP No.4003 of 2012 seeking to condone the delay of 67 days in preferring the appeal and on perusing the reasons assigned as lack of funds, the petition is allowed condoning the delay, directing the registry to number the appeal if it is otherwise in order and at request of both the counsel taken up the appeal for hearing.

3. Heard the learned counsel for the claimant and the 1st respondent-rider and 2nd respondent-owner of the crime vehicle remained exparte before the tribunal but appeared in the appeal and heard and also heard the 3rd respondent and perused the material on record.

4. It is the contention of the claimant in the appeal that the tribunal failed to consider the 50% disability deposed by the P.W.2 doctor for

the fracture of the tibia of the right leg. On perusal it is not a compound fracture even. There is no basis for issuing the certificate in assessing 50% disability. It is not clear for what even taken whether 50% is to the limb or to the whole body or to the functional disability even. The tribunal rightly not taken into consideration the disability and arrived to the compensation of Rs.81,000/- but for this Court it feels just awarding Rs.20,000/- more to the compensation awarded by the tribunal in lumpsum under various heads like medical expenses, loss of estate, transport, attendant charges, extra nourishment and loss of earnings etc. from the factual matrix but nothing to adopt multiplier method.

Hence, the compensation granted by the tribunal of Rs.81,000/- is enhanced to Rs.1,00,000/- confirming the rate of interest at 7.5%.

5. In the result, the appeal is partly allowed by enhancing the compensation from Rs.81,000/- is enhanced to Rs.1,00,000/-(One lakh rupees only) confirming the rate of interest at 7.5%. from date of the claim petition till realization/deposit with notice. The Respondents, jointly and severally liable to pay the compensation, are directed to deposit the said amount, if not deposited, within one month from today with interest, failing which the claimant can execute and recover. On such deposit or execution and recovery, the claimant is permitted to withdraw the same. There is no order as to costs. Consequently, miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 19.11.2015

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