

HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO

MACMAMP No.2614 OF 2014

IN/AND

MACMA No.2626 OF 2015

JUDGMENT:

The injured-claimant of M.V.O.P.No.179 of 2007 filed under Section 166 of the Motor Vehicle Act,1988 (*for short, 'the Act'*) before the learned Chairman of the Motor Accidents Claims Tribunal–cum-VIII Additional District Judge(FTC) of Chittoor (*for short, 'Tribunal'*) aggrieved by the award of the tribunal dated 02.01.2012, awarding the compensation of Rs.38,000/- with interest at 7.5%p.a. out of the claim of Rs.3,00,000/- against the owner of the crime lorry bearing No.AP02/T-8659-R.1 since died and represented by Legal representatives R.3 to R.5 and the Insurer as R.2, preferred the appeal contending that the quantum of compensation awarded by the tribunal is in ignorance of the Ex.A.3 wound certificate which shows 4 simple injuries and one grievous fracture and out of the 4 injuries two are lacerations that is also proved by the P.W.2 doctor T.M.Suresh though originally the injured was treated by doctor Shashidhar of their hospital, issued wound certificate and stated that Dr.Shashidhar's whereabouts not known and the tribunal ought to have considered the grievous injury and the evidence on record and should have awarded just compensation as prayed for and that the petition (MACMAMP No.2614 of 2014) filed to condone the delay of 206 days in filing the appeal which is due to lack of funds to be condoned.

2. Heard the learned counsel for the 1st respondent-deceased owner represented by legal heirs 3 to 5 of the appeal and also the learned counsel for the 2nd respondent-Insurer and perused the material on record. The petition (MACMAMP No.2614 of 2014) to condone the delay of 206 days in preferring the appeal is allowed and at request of both sides the appeal is taken up for hearing by directing the Registry to number the appeal if it is otherwise in order, for final

disposal.

3. Perused as the evidence of P.W.2 doctor and also Ex.A.2 wound certificate. The P.W.2, who originally not treated the injured, categorically deposed that there is a compound fracture of both bones of left leg shown from x-ray and 4 other simple injuries one laceration over scalp, laceration over chin, Avulsion heel pad of left foot and abrasion on left knee, right wrist and face. The injuries sustained therefrom are not in dispute including from the owner of the vehicle and the Insurer. However, having considered of the injuries but for not believing the version of spending 20 days as in-patient for no record produced regarding the fracture sustained, the tribunal granted only Rs.25,000/- for the injuries and remaining Rs.13,000/- towards loss of earnings, medical expenses, extra nourishment and attendant charges.

4. As there is a compound fracture to the left leg, the compensation of Rs.25,000/-, for the other 4 simple injuries of Rs.10,000/-, for medical expenses, treatment, loss of earnings, attendant charges, transport charges and for extra nourishment of Rs.20,000/- totaling of Rs.55,000/- is just to award.

5. In the result, the MACMAMP No.2614 of 2014 is allowed and the MACMA No.2626 OF 2015 is partly allowed by enhancing the compensation from Rs.38,000/- to Rs.55,000/-(Fifty five thousand rupees only) with interest at 7.5% p.a. from the date of claim petition till realization/deposit with notice. The Respondents, who are jointly and severally liable to pay the compensation, are directed to deposit within one month said amount with interest from the date of petition, 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 in the appeal. Consequently, miscellaneous petitions, if any, pending in this appeal shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 13.11.2015
VVR