

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A.M.P.No.2718 of 2011

IN/AND

M.A.C.M.A.No.290 of 2016

ORDER:

Heard the learned counsel for the appellant. The 2nd respondent even served failed to attend. The 1st respondent, who is owner of the vehicle remained exparte before the tribunal impleaded in the appeal and dismissed for default, no way fatal to the maintainability of the appeal vide **Meka Chakra Rao vs Yelubandi Babu Rao @ Reddemma**^[1]. Perused the material on record.

2. For the reasons stated in the affidavit filed in support of the petition, the delay of 81 days in filing the appeal is condoned, subject to condition of not entitled to interest on any enhanced amount but from today.

3. The claimant is the appellant, who maintained the claim under Section 166 of the Motor Vehicles Act for Rs.1,00,000/- enhanced to Rs.2,00,000/- against respondents 1 and 2, owner and insurer of Maruthi Alto bearing No.TN 02 S 9843 saying while the injured was proceeding on his motor cycle bearing No.AP 03 8833, the crime vehicle of the 1st respondent coming from Chennai side at Thoruru cross road dashed the motor cycle, for which the claimant fell down and sustained injures.

4. The tribunal held that the accident was the result of rash and negligent driving of the driver of the crime vehicle. So far as

the quantum of compensation is concerned, the tribunal in all awarded Rs.60,000/- with interest at 7.5% p.a. which is now impugning as unsustainable and utterly low, saying the tribunal should have been considered the permanent disability certificate and should have been adopted multiplier method and awarded compensation as prayed for. In fact, the injuries sustained as per Ex.A2-wound certificate are fracture to the left ankle joint and from the bleeding through left ear. X-ray taken shows diastasis of sutured noticed and though the description is not legible so far as the second injury concerned, the doctor opined that both the injuries are grievous and he was treated in SVRRGG Hospital, Tirupati, for six days i.e., from 03.07.2005 to 09.07.2005. For saying by PW2, doctor with reference to Ex.A4-permanent disability certificate of 7% permanent disability there is no basis and nothing even deposed by PW.3 in this regard and the discharge summary no way shows any such disability either from Ex.A3 or Ex.X1-case sheet but for reflected in Ex.X2-medical disability certificate with reference to Ex.A4 and what PW.2 deposed further of there is 30% disability contrary to the certificate saying as if there is a memory loss from the complaint of head ache and giddiness to the head injury is no basis.

5. However, taking into consideration of two grievous injuries and the loss of earnings as if for curing of the fracture at least for two months, pain and sufferance, extra nourishment, attendant charges, transport charges and medical expenses require to enhance from Rs.60,000/- to Rs.75,000/-.

6. Accordingly and in the result, the appeal is partly

allowed by enhancing compensation from Rs.60,000/- to Rs.75,000/-. The enhanced amount carries interest at 7.5% p.a. from today only. There is no order as to costs.

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

Dr. B. SIVA SANKARA RAO, J

Date:25-01-2016

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