

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A. No.4749 OF 2008

JUDGMENT:

The 2<sup>nd</sup> respondent—insurer among two respondents, including the owner of the jeep bearing No.AP 1 T 6036, in O.P. No.590 of 2002 on the file of Motor Vehicle Accidents Claims Tribunal-cum-District Judge, Nizamabad (for short ‘the Tribunal’) which was maintained by injured claimant, for the injuries sustained by him in the motor accident occurred on 10.04.2002, under Section 166 of Motor Vehicles Act, 1988 (for short ‘the Act’) for a compensation of Rs.1,21,530/- with interest at 7.5% per annum.

2) It is the contention of the learned standing counsel for the insurer that the quantum of compensation awarded by the Tribunal is excessive and exorbitant and there is contributory negligence on the part of the other jeep involved also but that was not considered by the Tribunal and sought for reduction of the compensation awarded by the Tribunal and prayed to allow the appeal.

3) Whereas, it is the contention of the learned counsel for 1<sup>st</sup> respondent/ claimant that the award of the Tribunal holds good and for this Court while sitting in appeal, there is nothing to interfere but for no cross objections to enhance the compensation.

4) Heard both sides. The 2<sup>nd</sup> respondent—owner of the vehicle remained exparte before the Tribunal and did not choose to appear in the appeal hence taken as heard. Perused the material on record.

5) Ex.A2—wound certificate issued by one Dr.Jayaprakash of Government Head Quarters Hosptial, Nizamabad shows the injured sustained four injuries i.e., 1) 15 X 8 cms laceration wound over left

side of puma with almost complete amputation of left ear (ear attachment with a tag of skin) 2) 2 X 2 Cms laceration wound over occipital, 3) Abrasion 3 X 2 Cms over left elbow and 4) a black mark over right forearm and of which injury No.1 is described as grievous and the others are simple injures. Ex.A3—discharge summary of SVR Hospital, Hyderabad shows that he was inpatient for seven days and operated to the left ear by skin grafting. None of the doctors were examined to prove the alleged disability or any hearing defect therefrom. In the absence of which for the said grievous injury from the skin grafting and normalcy of left ear by operation conducted at SVR Hospital, Hyderabad and for the other three injuries are simple injuries, what the Tribunal awarded is no doubt excessive and it is just to award compensation for the said grievous injury even taken in all of Rs.40,000/-, for the three simple injuries Rs.7,000/- and Rs.36,000/- for medical expenses, Rs.7,000/- towards attendant charges, transport charges, loss of earnings, in all it comes to Rs.90,000/-.

6) Accordingly and in the result, the appeal is partly allowed by reducing the compensation from Rs.1,21,530/- (Rupees one lakh twenty one thousand five hundred thirty only) to Rs.90,000/- (Rupees ninety thousand only) with interest at 7.5% per annum from the date of petition till realisation. No order as to costs. It is the submitted that the claimant has already withdrawn the entire compensation. If so, the insurer has to recover withdrawn amount only from the vehicle owner (insured) and not from the claimant.

7) Consequently, Miscellaneous petitions, if any pending in this appeal, shall stand closed.

**Dr. B. SIVA SANKARA RAO, J**

Dt.15.09.2016  
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Date:15.09.2016

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