

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A.No.629 OF 2008

ORDER :

The injured is the claimant of the motor accident dated 27.01.2002 at 09.00 PM at Varni Village of Nizamabad District allegedly taken place when he and his cousin brother were standing at road side near hotel to get a bus to go to Hyderabad, lorry of the 1st respondent insured with the 2nd respondent allegedly due to rash and negligent driving, dashed them and ram into the hotel and caused death of one person and he sustained injuries and extensive property damage of the hotel.

2. The claim is maintained for the injuries sustained including grievous in nature for Rs.5,00,000/- and after contest particularly by the 2nd respondent, on impugning liability and rash and negligent driving of the driver and coverage of insurance and possession of licence of driver for nothing that could be made out by the insurer.

3. In view of the contentions raised and producing proof by the claimants particularly the oral evidence of PW.1-injured and Exs.A.1 to A.66 and C.1, which includes FIR, Charge Sheet, Exs.A.63 to 66, scene observation and the coverage of policy of the vehicle of the 1st respondent insured with respondent No.2 involved in the accident and rash and negligent driving of the driver of the crime vehicle with joint liability vide order dated 12.11.2007 in O.P.No.1292 of 2002 awarded Rs.91,000/- with interest @ 7.5% per annum. It is contended by the learned counsel for appellant that the said quantum is utterly low, mainly placing Ex.A.61-disability certificate issued by medical board,

West Godavari District whereby then (2006 August) he was working, the accident is of the year 2002 showing right ear 10% disability and left ear 50% disability and it is a partial deafness of left ear, sought for allowing the appeal by granting claim as prayed for before the Tribunal.

4. Learned counsel in the course of hearing reiterated the same.

5. Whereas, it is the contention of the learned counsel for the second respondent insurer that the award of the Tribunal is just and proper and while sitting in appeal there is nothing to interfere more particularly when there is nothing to show that there is no any medical reimbursement, any loss of promotional prospectus or pay and allowances, any permanent disability still suffering as on the date of disposal of the claim petition much less by the time of filing O.P. in the year 2002 and the medical certificate issued is only for social welfare benefits if any and thereby sought for dismissal of the appeal.

6. Heard. Perused the material on record.

7. So far as medical expenses and pain and suffering, loss of earnings concerned practically with the award of the Tribunal with reasons there is nothing much to interfere including for the fractured injury. However, so far as the loss of hearing, impairment as partial permanent disability concerned, the certificate clearly shows that there is a marginal hearing loss of the left ear though on right side from 10% it is mild as so far as left ear there is 50% and though there is no loss of earnings much less any loss of promotional prospectus, a fixed sum can be awarded as it is partial permanent disability through out the life particularly of the left ear and at post retiral stage to pursue any other avocation even, thereby the compensation of 91,000/- is

8. MACMA.M.P.No.3172 of 2016 for return of the original documents is allowed by substituting Xerox copies duly certified with an undertaking to produce as and when required by any Court of law.

As a sequel, miscellaneous petitions, if any, pending in the revision shall stand closed.

16.08.2016
kvrm

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A.No.629 OF 2008

—

—

—

DATE: 16.8.2016

kvrn