

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A. No.1209 OF 2016

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JUDGMENT:

The injured claimant filed this appeal having been aggrieved by dismissal order/ award passed on 18.04.2011 in M.V.O.P. No.209 of 2008 on the file of Motor Vehicles Accidents Claims Tribunal – cum- XI Additional District Judge (FTC), Guntur at Tenali (for short ‘the Tribunal’) under Section 166 of the Motor Vehicle Act, 1988 (for short ‘M.V. Act’) for compensation of Rs.4,50,000/- but originally he claimed Rs.3,70,000/-, for the injuries sustained in the motor accident dated 12.11.2007.

2) The M.A.C.M.A. M.P. No.4512 of 2011 is filed to condone the delay of 20 days in filing the appeal, is condoned.

3) Heard learned counsel for appellant/ claimant and also learned standing counsel for Insurer. The respondent No.1—owner of the vehicle remained *ex parte* before the Tribunal and even impleaded in this appeal dismissed for default is no way fatal to the maintainability of the appeal vide ***Meka Chakradhara Rao vs Yelubandi Babu Rao***^[1] and the same is recorded. Heard and perused the material on record.

4) A perusal of the award of the Tribunal shows that the Tribunal without assigning any reasons came to conclusion that the injured while travelling on the bike fallen down and went by walk and implicated the crime vehicle of respondent No.1 insured with respondent No.2 to claim compensation as for his negligence unless there is personal accident coverage, he cannot claim any compensation. In fact, there is no explanation from the injured claimant for not joining immediately in the hospital, if at all, he sustained such multiple injuries and what he stated that he joined in Dr.Chadalawada Krishnaiah Multi Speciality Hospital, Tenali but was about seven days after the injuries sustained in the accident. His version is that after one week of the accident, he went to hospital with such multiple injuries. It is improper under Section 3 of the Evidence Act that even an ordinary prudent person would not kept quite without joining in any

hospital, leave about Government hospital or even to report to the police regarding the occurrence.

5) Having regard to the above, for this Court while sitting in appeal there is nothing to interfere.

6) Accordingly and in the result, the appeal is dismissed. No costs.

7) Consequently, miscellaneous petitions, if any pending in this Appeal shall stand closed.

Dr. B. SIVA SANKARA RAO, J

11.02.2016
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HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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