

**HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO**

**M.A.C.M.A. No.934 of 2010**

**JUDGMENT :**

The injured claimant Ch.Pradeep Kumar, aged about 15 years, as per Ex.A.10-copy of disability certificate though shows under Ex.A.2-wound certificate and Ex.A.1-F.I.R. and from the claim petition averments about 17 years, maintained the claim against the driver, owner and insurer of the auto bearing No.AP 5 TT 820 under Section 166 of the M.V.A.ct for compensation originally of Rs.9,00,000/-, from the contest by the insurer and from the evidence of PWs.1 to 4 including PW.3, doctor, who treated the injured, and RW.1, with reference to Exs.A.1 to A.14, Exs.X.1 to X.3 and Exs.B.1 and B.2, in O.P.No.495 of 2007 on the file of the Motor Accident Claims Tribunal (Principal District Judge), East Godavari District at Rajahmundry (for short, 'the Tribunal'), by award dated 19.01.2010, granted compensation Rs.1,99,519/- with interest at 7.5% p.a., by impugning the said quantum as utterly low, present appeal is filed by him.

2. Respondent No.1-driver endorsed as not necessary party having been remained ex parte before the Tribunal along with respondent No.2-owner, vide **M.Chakradhara Rao v. Y. Babu Rao**<sup>1</sup>.

3. The contentions in the grounds of appeal vis-à-vis the oral submissions of the learned counsel for the claimant/injured are that the Tribunal gravely erred in not taking the 100% disability despite

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<sup>1</sup> 2001(1) ALT-495(DB)

the medical board issued the certificate in proof of the same with all authenticity from the paraplegia with impairing total functional movement of both lower limbs and confined to bed or wheel chair and including for the assistance to attend calls of nature human agency and totally impaired, in not arriving percentage of disability and awarded compensation, which is utterly low, thereby to grant just compensation including from the evidence of PW.4, doctor, who deposed of the injured got 100% disability from the paraplegia.

4. Whereas, it is the submission of the learned counsel for the insurer that the awarded of the Tribunal holds good and for this Court while sitting in appeal, there is nothing to interfere, hence to dismiss the appeal.

5. Heard and perused the material on record.

6. The Court secured the presence of the injured boy and verified that the parents brought him in a wheel chair and made an arrangement for his attending calls of nature, which is part of the dress appended to the body, and he is unable to move even from the chair that substantiates the injured is with 100% disability totally impaired of the lower limbs functioning from the paraplegia. The disability certificate issued by the Medical Board covered by Ex.A.10 can be relied upon, therefrom no examination of the members of the Medical Board is required, leave about PW.4, Doctor working in NIMs, Hyderabad, also deposed in this regard.

7. Now coming to the quantum of compensation, the age of the injured is shown in the Medical certificate is appears 15 years, though in the claim petition claimed 17 years, which is no basis. Thus, the age to be taken as 15 or above and the multiplier applicable up to 15 years as per the Three Judge Bench expression of the Apex Court in **Reshma Kumari and ors. v. Madan Mohan & anr.**<sup>2</sup>, reiterating and upholding the expression of **Sarla Verma vs. Delhi Transport Corporation**<sup>3</sup>, on a reference about its correctness in saying up to 15 years in Schedule-II, multiplier 15 to be adopted and 15 to 20 years, the multiplier to be taken is 18 irrespective of Schedule II of the M.V.Act. Therefore, the appropriate multiplier that can be taken to the injured, above 15 years, is 18.

8. The earnings of the injured as on the date of accident i.e., 02.05.2007 from his age 15 years and above, not crossing 16 years, can be estimated at Rs.2,500/- per month, then the compensation is entitled the injured comes to Rs.5,40,000/- (Rs.2,500 x 12 x 18) and even Rs.1,60,000/- to be taken towards medical expenses including the treatment in NIMs Hospital, having treavelled for the treatment from the native of East Godavari Anaparthi, loss of earnings, attendant charges and transport charges, in all it comes to Rs.6,00,000/-. Apart from it, this Court feels it reasonable to award an amount of Rs.1,00,000/- towards future attendant charges. Thus, the injured is entitled to Rs.7,00,000/-, which is just compensation, to

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<sup>2</sup> 2013 ACJ 1253

<sup>3</sup> 2009 ACJ 1298

enhance from Rs.1,99,519/-. It is needless to say, if there is any future medical requirement, remedy is left open of proving said medical requirement and to make further claim, to which the Tribunal shall permit only Rs.2,50,000/- out of the amount including interest, and the remaining amount with interest shall invest in the name of the injured-claimant in high interest yielded fixed deposit in any natinoalised bank only and the parents be permitted to open an State Bank account in the name of either of them should remit every month interest to the account to meet the expenditure required for the injured. Any future requirement to be permitted, if at all, by the Tribunal at any cost shall not exceed Rs.25,000/- to Rs.50,000/- that too on showing any medical requirement. Unless the parents show any purchase of the property in the name of the injured, that amount is to permit in lumpsum on satisfaction and on substance.

9. Accordingly, the appeal is allowed in part by enhancing the compensation from Rs.1,99,519/- to Rs.7,00,000/- (Rupees seven lakhs only). Rest of the terms of the award of the Tribunal holds good.

10. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

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

9<sup>th</sup> November 2016.

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