

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A No.292 OF 2010

JUDGMENT:

The injured claimant maintained O.P. No.1647 of 2007 on the file of VII Additional Metropolitan Sessions Judge-cum-XXI Additional Chief Judge, Hyderabad (for short 'the Tribunal') against two respondents i.e., owner and insurer of DCM Van bearing No.AP7 TT 7581 for a compensation of Rs.5,00,000/- under Section 166 of Motor Vehicles Act (for short 'the Act') for the injuries sustained in the motor accident dated 24.05.2007. The Tribunal, after contest by the 2nd respondent—insurer and after evidence of PWs.1 and 2 including PW.3—Dr Mallika Goel, Exs.A1 to 21, which includes Ex.A12—disability certificate held that there is 70% loss of vision of right eye and from Ex.B1—policy, having fixed joint liability against respondents 1 and 2, awarded compensation of Rs.3,65,859/- with interest at 6% per annum from the date of petition till realisation and impugning the said quantum and rate of interest as utterly low, maintained the present appeal.

2) Heard learned counsel for appellant and also learned counsel for 2nd respondent—insurer. Perused the material on record.

3) The law is fairly settled from the expression of the Apex Court in ***Raj Kumar vs Ajay Kumar***¹ that percentage of limb cannot be taken into consideration but for overall disability, therefrom of whole body to assess and that too, from the same unless shows it affects the functional disability and the impact on the earnings, only a fixed sum to be granted. Once such is the case, what the Tribunal awarded of Rs.1,00,000/- towards loss of eye vision no way requires much interference but for an overall consideration of the facts from the

¹ 2011 (1) SCC 343

evidence on record and what the Tribunal awarded of Rs.3,69,859/- enhanced to Rs.4,00,000/- and also rate of interest from 6% per annum to 7.5% per annum.

4) Accordingly the appeal is partly allowed by enhancing the compensation from Rs.3,69,859/- (Rupees three lakhs sixty nine thousand eight hundred fifty nine only) to Rs.4,00,000/- (Rupees four lakhs only) and so far as rate of interest from 6% per annum to 7.5% per annum from the date of petition till realisation. No order as to costs.

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

Dt.27.10.2016
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Dr. B. SIVA SANKARA RAO, J

