

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A No.77 OF 2010

JUDGMENT:

The injured claimant maintained O.P. No.626 of 2006 on the file of Motor Accidents Claims Tribunal—cum—I Additional District Judge, Nalgonda, (for short ‘the Tribunal’) against two respondents i.e., owner and insurer of auto bearing No.AP 24 V 8189 for a compensation of Rs.1,00,000/- under Section 166 of M.V.Act (for short ‘the Act’) for the injuries sustained by him in the motor accident dated 08.04.2006. From the contest by the 2nd respondent—insurer, the Tribunal on 16.07.2009 awarded compensation of Rs.49,500/- with interest at 7.5% per annum. Impugning the said quantum and rate of interest as utterly low, the injured claimant maintained the present appeal.

2) Heard learned counsel for appellant—claimant, learned counsel for 1st respondent and learned standing counsel for insurer. Perused the material on record.

3) The averments of the claim petition show that on 08.04.2006 at about 10.00 am the claimant and one Shambaiah were proceeding on TVS Victor motor cycle bearing No.AP 24 J 2777, when they reached outskirts of Mallareddigudem village, auto bearing No.AP 24 V 8189 of 1st respondent insured with 2nd respondent came from Mellacheruvu towards Mallareddigudem village in a rash and negligent manner and dashed the TVS motor cycle, from which both of them sustained injuries.

4) As per Exs.A1 and A2—FIR and chargesheet and evidence of PW.1 show the accident was the result of rash and negligent driving of the driver of the auto, for this Court while sitting in appeal there is nothing to interfere so far as the finding of the Tribunal concerned much less for any cross objections.

5) Now coming to the quantum of compensation, Ex.A3—C.C of Medical certificate shows the injured sustained injuries viz., 1) fracture of right tibia lower 1/3rd 2) laceration over right anterior part of thigh, 3) abrasion on forehead, 4) Abrasion on right cheek, 5) Fracture of right side upper canine, 6) multiple abrasions over left wrist and 7) swelling and tenderness of right shoulder. The fracture of right tibia lower 1/3rd and fracture of right side upper canine are grievous in nature and the other five are simple injuries. Thus, what the Tribunal awarded of Rs.49,500/- requires enhancement. Even taken Rs.20,000/- for the said fracture injury of right tibia lower 1/3rd, Rs.20,000/- for the fracture of right side upper canine, Rs.10,000/- for the five simple injuries, Rs.15,000/- towards medical expenses and treatment what the Tribunal considered, Rs.5,000/- towards loss of earnings, Rs.5,000/- towards attendant and transport charges, in all it comes to Rs.75,000/- is the just compensation.

6) Accordingly and in the result, the appeal is partly allowed by enhancing the compensation from Rs.49,500/- (Rupees forty nine thousand five hundred only) to Rs.75,000/- (Rupees seventy five thousand only) with interest at 7.5% per annum from the date of petition till realisation.

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

Dr. B. SIVA SANKARA RAO, J

Dt.18.10.2016
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