

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

**MACMA MP No.3282 of 2011 in MACMA No. 324 of 2016 &
MACMA No. 324 of 2016**

COMMON ORDER :

Delay of 263 days in filing the appeal is condoned subject to condition that the petitioner is entitled interest on enhanced amount from today only.

2) At request of both sides the appeal is taken up for hearing. The claimant is the appellant. He filed the claim petition in M.V.O.P.No.867 of 2006 under Section 166 of the Motor Vehicles Act for compensation of Rs.1,50,000/- against the three respondents driver, owner and insurer of the auto bearing No.AP 35 T 7581. The accident was dated 17.05.2006 with averments of petitioner and one Appa Rao were proceeding on the motor bike bearing No.AP 35 E 5588 towards Gajapathinagaram, at Gotlam village due to rash and negligent driving of the 1st respondent-driver of auto of the 2nd respondent, the auto dashed the bike, as a result, they sustained injuries. The Tribunal found accident was the result of rash and negligent driving of the driver of the auto to make the driver, owner and insurer of the auto responsible and awarded compensation of Rs.1,16,000/- with interest at 6% p.a. vide award dated 15.06.2010, same is now impugned in the grounds of said compensation is utterly low and ought to have been awarded Rs.3,00,000/- as prayed for and awarding 6% p.a. interest is utterly low and hence to allow the claim as prayed for.

3) Heard the learned counsel for the appellant/claimant and the insurer and perused the material on record. As per **Rajesh v. Rajbir Singh** 7.5% p.a. interest is just to enhance.

4) Coming to the quantum, the claimant sustained as per the evidence of the doctors P.Ws 2 and 3 with reference to Ex.A-2 wound certificate and Ex.X-1 and X-2 case sheet and discharge summary with Ex.A-6 X-ray fracture of left humerus upper 3rd into multiple

pieces and there is also another injury of right radial crystal third fracture and the patient was shifted from Venkateswara Nursing Home of P.W-2 to American Hospital, Visakhapatnam, where P.W-3, Dr.Murali Mohan, treated along with another ortho surgeon Dr.Dharma Rao as inpatient for more than one month by conducting surgery and stated another operation is required for removal of plates. Though P.W-3 is deposed with reference to Ex.A-7 disability certificate as if of 35% partial permanent disability, there is no basis to consider and the Tribunal rightly not considered. However, Tribunal awarded for the injuries only Rs.60,000/- compensation apart from Rs.56,000/- towards medical expenses proved from the bills under Ex.A-5. As there is left fore arm humerus fractured into multiple pieces and re-united and there is another fracture of right radius it requires award of compensation including for the successive operations and treatment as inpatient for the pain and sufferance for both injuries Rs.75,000/- to enhance from Rs.60,000/- apart from Rs.56,000/- towards medical expenses, loss of earnings of two months at Rs.7,000/-, attendant charges, transport charges, extra nourishment of Rs.8,000/- comes to Rs.1,46,000/- is the just compensation by enhancing from Rs.1,16,000/-.

5) In the result, the appeal is partly allowed by enhancing the compensation from Rs.1,16,000/- to Rs.1,46,000/- by enhancing the rate of interest from 6% p.a. to 7.5% p.a. on the original amount from the date of claim petition till the date of realization and on the enhanced amount only from today till the date of realization. In all other respects, the award of the Tribunal holds good. There shall be no order as to costs.

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

Dr. B. SIVA SANKARA RAO, J

25.01.2016

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