

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA Nos.553 and 2447 of 2006

COMMON JUDGMENT:

MACMA No.553 of 2006

The injured claimant in O.P.No.387 of 2003 whose left leg below knee was amputated which shows 50% permanent disability from the Medical Board certificate Ex.A.5, maintained the claim under Section 166 of the Motor Vehicle Act,1988 (*for short, 'the Act'*) on the file of the learned Chairman, Motor Accidents Claims Tribunal–cum-V Addl. District Judge, Anantapur, (*for short, 'the Tribunal'*), for the claim of Rs.2,00,000/- against the owner and Insurer of the lorry bearing No.KA 01 9596 saying while he was carrying curd for selling and proceeding on the extreme left side of the road on foot on the National High Way No.7 at C.K.Palli village, the crime lorry while coming from behind due to rash and negligent driving of its driver dashed against her from which she sustained fracture injury to her left leg, the tribunal on hearing granted Rs.1,25,000/- with interest at 7.5% p.a. fixing joint liability against both the respondents vide award dated 24.11.2005. It is impugning, the present appeal is maintained by the claimant saying the quantum is utterly low.

MACMA No.2447 of 2006

2. The Insurer-2nd respondent of the above claim petition O.P.No.387 of 2003 also maintained this appeal aggrieved by the award of the tribunal contending that the compensation granted by the tribunal as excessive.

3. In both the appeals, heard learned counsel for the appellant/claimant so also the learned counsel for the 2nd respondent-

Insurer from the 1st respondent-owner of the crime vehicle who remained exparte before the tribunal even did not turn up before this Court taken as heard.

4. In MACMA No.553 of 2006, the claim of the claimant is that she was earning Rs.3,000/- per month as on the date of accident on 16.05.2003 from milk vending. Even as per expression of the Apex Court in **Latha Wadhwa vs. State of Bihar**^[1] even in the absence of proof of earnings to the domestic contribution of a housewife can be assessed at Rs.3,000/- p.m. and what she claimed of Rs.3,000/- no way requires to reduce much less as reduced by the tribunal for Rs.1,500/- p.m. and her age is about 60 years and the multiplier that is applicable to a person above 60 years as per the multiplier table from the expression of **Sarla Verma v. Delhi Transport Corporation**^[2], is 07. When it is 50% disability, a compensation of Rs.1500/-p.m. x 12 x 07 = Rs.1,26,000/- besides Rs.74,000/- for the artificial limb, loss of earnings, pain and sufferance, attendant and transport charges is just to award and it becomes more than claimed. When such is the case, the claimant is entitled to compensation as prayed for.

5. In the result, the appeal is allowed by granting compensation of Rs.2,00,000/- as prayed for with interest at 7.5% p.a. The respondents are directed to deposit the amount within one month from today, failing which the claimant can execute and recover. On deposit or execution, the claimant is entitled to withdraw the said amount. Rest of the award holds good. There is no order as to costs in the appeal. Consequently, miscellaneous petitions, if any pending in this appeal, shall stand closed.

6. **MACMA No.2447 of 2006:**

Since the appeal in MACMA No.553 of 2006 is allowed, this appeal is dismissed with no costs. Consequently, miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 04.08.2016

Vvr

[\[1\]](#) (2001) 8 SCC 197=AIR 2001 (SC) 3218

[\[2\]](#) 2009 ACJ 1298