

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A No.4698 OF 2008

JUDGMENT:

The injured claimant maintained O.P. No.619 of 2007 on the file of Motor Accidents Claims Tribunal – cum – XXI Additional Chief Judge, Red Hills, Nampally, Hyderabad, (for short ‘the Tribunal’) against two respondents i.e., owner and insurer of Bolero XL Van bearing No.AP 24 V 5643 for a compensation of Rs.1,50,000/- under Section 166 of M.V.Act (for short ‘the Act’) for the injuries sustained by him in the motor accident dated 17.07.2006. From the contest by the 2nd respondent—insurer, the Tribunal having held that the accident was the result of rash and negligent driving of driver of crime vehicle of 1st respondent insured with 2nd respondent, awarded compensation of Rs.42,000/- with interest at 6% per annum. Impugning the said quantum and rate of interest as utterly low, the injured claimant maintained the present appeal with the contentions that the Tribunal ought to have awarded compensation as claimed for.

2) Whereas, it is the contention of the learned counsel for 2nd respondent—insurer that the 1st respondent—owner of the vehicle remained exparte before the Tribunal and stated not necessary party vide ***Meka Chakra Rao vs Yelubandi Babu Rao***¹ and for this Court while sitting in appeal, there is nothing to interfere and prayed to dismiss the appeal.

3) Heard learned counsel for the appellant—claimant and learned standing counsel for insurer—respondent No.2. Perused the material on record.

¹ 2001 (1) ALT 495 DB

4) A perusal of the record shows that the accident was occurred on 17.07.2016 while the injured was traveling in an auto to go to Mall village, when he reached outskirts of Madanapuram Village, the van belonging to 1st respondent came in a rash and negligent manner and dashed the auto, as a result, the injured and other passengers sustained multiple injuries vide crime No.102 of 2006.

5) The evidence of PW.2 with reference to Ex-A6—disability certificate shows that the injured is suffering from 20% disability, stiffness of right clavicle bone and mal union of Elbow bones where two fractures said to have been sustained by the petitioner and examination of the petitioner by PW.2 nearly two years after the accident is not believable. After considering the evidence on record, the Tribunal came to the conclusion that for the two fractures and lacerated injury besides medical expenses, treatment, loss of earnings, attendant charges, the petitioner is entitled to only Rs.42,000/- even there is no proof of disability much less on observing the petitioner when he came into the witness box before the lower Court..

6) Having regard to the above, fresh in facts and in appreciation of the evidence, it is just and reasonable to award Rs.20,000/- each for the two fractures, Rs.5,000/- for the lacerated injury and even awarded Rs.15,000/- towards medical expenses, attendant charges, transport charges, loss of earnings, extra nourishment, Rs.60,000/- is the just compensation.

7) Coming to rate of interest, the tribunal awarded at 6% per annum which is too low as per the settled expression in **TN Transport Vs. Raja Priya**² and **Rajesh Vs. Rajbir Singh**³ where 7.5% per annum awarded as just.

² 2005 (6) SCC 236

8) Accordingly, and in the result, the appeal is partly allowed by enhancing the compensation from Rs.42,000/- (Rupees forty two thousand only) to Rs.60,000/- (Rupees sixty thousand only) and rate of interest from 6% per annum to 7.5% per annum. In other respects, the award of the Tribunal holds good. No order as to costs.

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

Dt.12.09.2016
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Dr. B. SIVA SANKARA RAO, J

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Date:12.09.2016

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