HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A.No.4804 of 2008

JUDGMENT:

The respondents 3 and 4, who are United India Insurance Company Limited, represented by its Divisional Managers, Vijayawada and Warangal, respectively among four respondents including driver and owner of lorry bearing No.AP 16T 0835 maintained the appeal, impugning the award of the tribunal dated 26.06.2006 in M.V.O.P.No.662 of 2004 in deciding the same along with another claim of injured person by name, G.Koti Praveen Kumar. The present claim maintained by sole claimant for damages caused to his lorry bearing No.AAN 7447 saying due to the rash and negligent driving of the driver-claim petition 1st respondent of the lorry of the 2nd respondent insured with respondents 3 and 4 that dashed the lorry of the claimant, which in turn dashed a tree from which it is by turning turtle badly damaged and the claim made is for Rs.1,50,000/- under Section 166 of the Motor vehicles Act and the tribunal after contest awarded Rs.1,23,300/- with interest at 7.5% p.a. and impugning the said quantum as baseless and unsustainable, present appeal is maintained.

2. The appeal respondents 3 and 4, who are respondents 1 and 2-driver and owner of the lorry of the claim petition failed to attend and also remained ex parte before the tribunal.

3. Heard and perused the material on record and treated as heard the 1st respondent to the appeal.

4. The record covered by the impugned order of the lower Court itself discloses that there is no intimation of the accident to the insurer to appoint a surveyor to assess. Even to award Rs.40,000/- as loss of earnings for the period allegedly taken place to affect the repairs from 06.01.2002 i.e., date of accident to allegedly done on 05.05.2002 in saying earlier by supplying lorries to the Civil Supplies Department allegedly getting Rs.10,000/- p.m. Nothing attributed of the total period taken much less from any contribution of the insurer or the owner of the crime vehicle nothing demonstrated as to how such a long time is taken to affect the repairs much less beyond the control of the claimant thereby said amount is on its face unsustainable. Apart from it even out of amount arrived remaining Rs.83,311/- there is no depreciation of even 5% or anything more arrived while considering the so called quotations, cash bills and evidence of PW.4-private surveyor under

Ex.A74-report cause appointed only by the claimant to place reliance.

5. Having regard to the above, even by accepting that amount arrived even from the survey report, the maximum amount that could be awarded is Rs.1,00,000/- and thereby the amount of Rs.1,23,300/- is just to reduce to Rs.1,00,000/-.

6. Accordingly, the appeal is partly allowed by reducing the compensation from Rs.1,23,300/- to Rs.1,00,000/-. In other respects, the award of the tribunal holds good. No order as to costs.

7. Miscellaneous petitions, pending if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:16.09.2016
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