

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A. No.3391 of 2009

JUDGMENT:

The injured claimant maintained the claim O.P. No.790 of 2004 on the file of Motor Accidents Claims Tribunal-cum-V Additional District & Sessions Judge, Nalgonda District at Miryalaguda, (for short 'the Tribunal') under Section 166 M.V Act for the injuries sustained in the accident dated 06.10.2003, claimed for Rs.3 lakhs and the Tribunal awarded compensation of Rs.1,15,500/- with interest at 7.5% per annum against the insurer. It is now impugning the same, the quantum of compensation granted by the Tribunal is utterly low, the present appeal is filed.

2) Heard learned counsel for appellant/ petitioner and learned standing counsel for 2nd respondent—insurance company. Respondent No.1 even served failed to attend and taken as heard and perused the material on record.

3) It is the contention of the learned counsel for appellant—claimant that the Tribunal ought to have considered the permanent disability deposed by Dr.PW.3—Raja Ayangar and could have considered the disability certificate issued by medical board under Ex.A20 and thereby sought to enhance the compensation before the Tribunal.

4) Whereas it is the contention of the insurer that a perusal of the award shows no way requires enhancement

either contributory negligence of 25% of triple riding of two wheeler or 75% liability fixed on the opposite vehicle of respondent No.1 insured with respondent No.2, thereby sought for dismissal of the appeal. Perused the material on record.

5) PW.3 deposed that the case records of NIMS Hospital, no way shows any permanent disability from the injuries sustained and treatment undergone for the percentage of disability is shown as if 10 to 15%. Whereas Ex.A20—disability certificate issued by Gandhi Hospital medical board is of 30%. In fact the disability certificate shows issued for social benefits and not for a purpose of medico legal case and even there is no basis for partial disability of 10 to 15% of PW.2 deposed by PW.3 much less any observation from examination of PW.2—injured. However, by taking into consideration of the nature of injuries and from the medical expenses incurred, attendant and transport charges, loss of earnings what the Tribunal awarded of Rs.1,15,500/- requires enhancement to Rs.1,30,000/-.

6) Accordingly and in the result the appeal is partly allowed by enhancing the compensation from Rs.1,15,000/- to Rs.1,30,000/- with interest at 7.5% per annum from the date of petition till the date of realization. In other respects, the award of the Tribunal holds good. No order as to costs.

7) Consequently, miscellaneous petitions, if any pending in this Appeal shall stand closed.

Dr. B. SIVA SANKARA RAO, J

25.01.2016
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HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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