

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

C.M.A.No.4645 of 2004

JUDGMENT:

The injured claimant of O.P.No.1211 of 2003 maintained the claim under Section 166 of the Motor Vehicles Act for Rs.8,00,000/- against three respondents including owner of the jeep bearing No.AP 22U 3755 since died in the same accident, represented his estate by his parents and the insurer of the jeep. The tribunal after contest having held that the accident was the result of rash and negligent driving of the driver of the jeep of respondents 1 and 2 representing their deceased son/ owner of the jeep insured with the 3rd respondent, jointly and severally liable in awarding compensation of Rs.1,79,684 with interest at 9% p.a. vide award dated 23.08.2004 and impugning the same, the present appeal is filed mainly on the quantum is utterly low.

2. Heard the learned counsel for the appellant-injured and also the insurer-3rd respondent and perused the material on record.

3. There is undisputedly amputation of left foot resulting in end bearing and as per the Workmen's Compensation Act Schedule-I, Item 22, speaks of 50% permanent disability. Apart from it, there is loss of right foot second toe as also shown from the disability certificate issued by the member of the medical board-PW.3 with reference to Ex.A14. Thus from overall consideration of the functional disability that is required to be taken into consideration as per the expression of the Apex Court in Raj Kumar v. Ajay

Kumar¹ that can be taken at 60% permanent disability, even assessed his earnings as on the date of accident in March, 2003 at Rs.3200/-p.m. vide Lata Wadhwa v. State of Bihar², it comes to Rs.3,68,640/- from his age about 32 years as per Sarla Verma v Delhi Transport Corporation³ from the multiplier '16' that is applicable and added to it medical expenses, loss of earnings, extra nourishment, pain and sufferance, attendant charges, transport charges even included Rs.31,360/-, in total Rs.4,00,000/- is the just compensation to enhance from Rs.1,79,684/-, however, by reducing the rate of interest from 9%to 7.5%p.a.

4. Accordingly and in the result, the appeal is partly allowed by enhancing compensation from Rs.1,79,684/- to Rs.4,00,000/- by reducing the rate of interest from 9%to 7.5%p.a. from the date of claim petition till realization There is no order as to costs.

5. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B.SIVA SANKARA RAO, J

Date:08-09-2016
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¹ 2011 ACJ 1

² AIR 2001 (SC) 3218

³ 2009 ACJ 1298.