

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A No. 1576 OF 2008

JUDGMENT:

The injured claimant maintained O.P. No.195 of 2006 on the file of Motor Accidents Claims Tribunal –cum –I Additional District Judge, Mahabubnagar (for short ‘the Tribunal’) against two respondents for a compensation of Rs.1,00,000/- under Section 166 of M.V.Act (for short ‘the Act’) for the injuries sustained by him in the motor accident dated 26.01.2006. On contest, the Tribunal considering the contributory negligence of 25% on the part of the injured claimant, awarded compensation of Rs.33,000/- with interest at 7.5% per annum with joint liability against respondents 1 & 2. Impugning the same, the injured claimant preferred the present appeal.

2) Heard learned counsel for the appellant—claimant and learned standing counsel for insurer. Respondent No.1—owner of the vehicle remained exparte before the Tribunal even impleaded in this appeal is no way fatal to the maintainability of appeal vide *Meka Chakra Rao vs Yelubandi Babu Rao*¹. Perused the material on record.

3) On 26.01.2016, at 7.15 am, while the injured claimant was proceeding along with his wife on a scooter bearing No.AP 22 C 2078 to go to Primary School, Udandapur to attend flag hoisting ceremony and when they reached Kondair village, the offending bus belonging to A.P.Tourism Development Corporation insured

¹ 2001 (1) ALT 495 DB

with respondent No.2 while coming in opposite direction in a rash and negligent manner, dashed the scooter, as a result of which he sustained injuries. As per Ex.A2—wound certificate issued by Orthopedic surgeon of Viswa Bharathi Super Speciality Hospital, Kurnool, which was referred by Government General Hospital, Kurnool, and supported by Ex.C1—case sheet and Radiologist opinion dated 26.01.2006, he sustained fracture of right fore arm bone, right clavicle and ribs. The Tribunal, having found that the accident was the result of rash and negligent driving of vehicle of respondents 1 and 2 for which they are liable to compensate the injured for no fault of him while long back having reimbursed the medical bills for no more proof, held that there was 25% contributory negligence on the part of the injured claimant and remaining 75% that of the vehicle driver and accordingly awarded Rs.33,000/- out of the total compensation of Rs.44,000/-, and the same is now claimed as utterly low.

4) So far as the fracture of both bones, it is just and reasonable to award Rs.25,000/- and for the other clavicle fracture and rib fracture Rs.20,000/- and Rs.5,000/- respectively can be granted, and for attendant charges, transport charges, extra nourishment as there is no proof of any loss of earnings or any non-granting of medical reimbursement of total expenses incurred, it is just to award Rs.50,000/- of which 75% of liability comes to Rs.37,500/-, which is the just compensation.

5) Accordingly and in the result, the appeal is partly allowed by enhancing the compensation from Rs.33,000/- (Rupees thirty three thousand only) to Rs.37,500/- (Rupees thirty seven thousand five hundred only) with interest at 7.5%per annum from the date of petition till realisation. In other respects the award of the Tribunal holds good. No order as to costs.

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

Dt. 18.08.2016
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Dr. B. SIVA SANKARA RAO, J

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Date:18.08.2016

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