

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A.No.4582 of 2008

JUDGMENT:

The injured claimant of O.P.No.623 of 2005 maintained against the owner and insurer of Hydro Crane bearing No.AP-11-AJ T/R-0064, for the injuries sustained in the motor accident dated 10.02.2004 with the averments that while she was returning from office on foot on left side of road, the crime vehicle of respondent No.1, due to the rash and negligent driving of the driver, dashed against her while coming in high speed, due to which she sustained injuries from the driver of the 1st respondent and 2nd respondent insurer are jointly liable, the claim maintained under Section 166 of Motor Vehicles Act for Rs.5,00,000/-, the Tribunal awarded a compensation of Rs.1,35,000/- with interest @ 6% per annum vide award dated 24.06.2008 with the observation that the evidence of PW.4, who is the member of the Medical Board of the Chittoor District assessed the limb left foot disability of 50% and by taking consideration of the same and also for the injuries sustained including pain and sufferance, medical expenses treatment in various hospitals deposed through PWs.2 to 4 including at Appollo Hospital, Tirupati and NIMS Hospital. She was a private employee earning Rs.3,000/- as on date of accident and suffers from permanent disability and loss of marriage prospects also from the avulsion injury on the right foot and academic and future prospects. It is impugning the said quantum, the claimant maintained the appeal.

The 1st respondent remained exparte before the Tribunal it is represented not necessary to the appeal vide **Meka Chakra Rao V. Y.Babu Rao**¹ and the same is recorded.

It is the submission of the learned counsel for the appellant by reiterating the same that the Tribunal ought to have awarded Rs.5,00,000/- as prayed for with interest at least 7.5% per annum, hence to allow the appeal. Whereas it is the submission of the learned counsel for the insurer that the award of the Tribunal holds good and for this Court while sitting in the appeal there is nothing to interfere, hence to dismiss the appeal.

Heard and perused the material on record.

No doubt as held by the Apex Court in **Raj Kumar Vs. Ajay Kumar**² even disability certificate issued by the Doctor for a particular limb total functional disability, the Court has taken into consideration not the disability of particular limb from the earning capacity of the injured in arriving in case of permanent disability.

Having regard to above and even taken into consideration from the length of treatment in various hospitals deposed through Doctors and avulsion injury at the right foot with limping even as per the evidence of PW.4 examined while issuing disability certificate on behalf of medical board being the member, what the Tribunal awarded of Rs.1,35,000/- with interest requires enhancement to Rs.1,65,000/- with 7.5% per annum.

Accordingly and in the result, the appeal is allowed by enhancing the compensation from Rs.1,35,000/- to Rs.1,65,000/- with interest @ 7.5% per annum. The respondents are directed to

¹ 2001(1) ALT 495 (DB)

² 2001 ACJ 1

deposit the amount within one month from the date of receipt of this order and on such deposit, the claimant is permitted to withdraw without furnishing any security.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 08.09.2016
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