

**HON'BLE DR. JUSTICE B. SIVA SANKARA RAO**

**M.A.C.M.A.No.147 of 2010**

**JUDGMENT:**

The respondent-APSRTC, represented by its Managing Director, Musheerabad, Hyderabad to the claim petition i.e. M.V.O.P.No.1517 of 2006, aggrieved by the Award dated 29.01.2009 of the Chairman, Motor Accident Claims Tribunal-cum-II Additional District Judge, Warangal (for short 'the Tribunal) awarding compensation of Rs.4,06,000/- with interest @ 7.5% per annum in the claim maintained under Section 166 of the Motor Vehicles Act (for short 'the Act), for the injuries sustained on 24.05.2006 while proceeding as pillion rider on Kinetic Honda Scooter. The bus of the respondent-APSRTC belongs to Warangal II Depot proceeding towards Mulugu from Jangalapally in a high speed dashed the Kinetic Honda scooter, as a result, he fell down and sustained injuries. It is on contest of respondent, the Tribunal held that the accident occurred due to rash and negligent driving of the driver of the bus and awarded compensation.

The only dispute in the grounds of appeal impugning the award is that the Tribunal without any basis arrived at Rs.3,50,000/- towards medical expenses, extra nourishment, attendant charges and special diet while granting Rs.36,000/- towards dislocation of left knee joint and for two simple injuries and thus, in arriving total compensation of Rs.4,06,000/- is baseless thereby required to be reduced.

Learned counsel for the appellant/APSRTC reiterated in the course of arguments. Whereas, it is the contention of the learned counsel for the claimant that the findings of the Tribunal are holds

good and the compensation awarded is just and requires no interference while sitting in appeal but for dismissal of the appeal.

Heard. Perused the material available on record.

The evidence of PW.2-DrA.V.Guruva Reddy of KIMS Hospital, Hyderabad was that on 20.02.2007, the claimant was admitted in the hospital with RTA history of fracture lateral condyle of left femur said to have been occurred on 24.05.2006 (nearly eight and half months back) and he was informed that he was operated in Bhagwandas Devi Hospital and screw was fixed. On his examination, the doctor found painful restriction of movement in left knee with swelling and surgical scar on the knee joint with movement of 10 to 90 degrees and thereby total knee replacement was offered and knee replacement was done on 08.08.2007 with team of doctors and discharged on 13.08.2007 and still the injured got mild swelling and that the claimant has pain free movements from 0 to 100 degrees to knee joint is stable. Ex.X.1 is the bill issued by KIMS Hospital, Hyderabad for Rs.1,88,635/-. So far as the earlier treatment, the claimant claimed in Bhagwandas Devi Maternity and Orthopaedic Hospital, Hyderabad for operation and screw fixing. It could not be specifically stated that what amount is incurred and which doctor examined. The Tribunal could not assign any cogent reason for the knee replacement and operation conducted by KIMS hospital that was charged. Thereby, at any cost Rs.3,50,000/- is required to be reduced to Rs.3,00,000/- though in all other aspects what the compensation awarded of pain and sufferings to the fracture injury sustained besides two simple injuries of Rs.36,000/-, Rs.15,000/- towards loss of earnings and Rs.5,000/- towards attendant and transport charges no way

requires interference thereby Rs.4,06,000/- is reduced to Rs.3,56,000/-.

With the above observations, the appeal is allowed-in-part.  
In other respects, the award of the Tribunal holds good.

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

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**JUSTICE Dr. B.SIVA SANKARA RAO**

Date: 22.11.2016  
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