

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

MACMA Nos. 488 & 678 of 2005

COMMON ORDER :

The two claimants in O.P. No.475 and 476 of 1999 are husband and wife. They involved in the motor accident dated 23.06.1999 while traveling in the bus bearing No.AP 03 T 3369 due to alleged rash and negligent driving in dashing against the opposite coming lorry bearing No.KA 07-95 and thereafter bus dashed the right side tree, as a result leave about other passengers also sustained injuries, two claimants sustained injuries. The claim is maintained against the owner and insurer of the bus under section 166 of the Motor Vehicles Act respectively for Rs.98,500/- in claim of husband and Rs.78,500/- in claim of wife. The Tribunal from the contest by insurer-2nd respondent from the 1st respondent-owner of the private bus remained exparte, concluded on issue No.1 of the accident was the result of the rash and negligent driving of the driver of the bus from the evidence of P.Ws 1 and 2, the injured persons coupled with Ex.A-5 F.I.R and there is no oath against oath from the respondents muchless by the examination of the bus driver to say any fault of the opposite coming lorry driver muchless any contribution of opposite coming lorry driver. The insurance company did not challenge the same that made final so far as that finding is concerned.

2) Now, the two appeals maintained by the claimants are impugning the quantum awarded of Rs.37,000/- in O.P. No.475 of 1999 and Rs.21,000/- in O.P. No.476 of 1999 respectively with interest at 9% p.a. by common award dated 10.08.2004 as utterly low to enhance in claiming to allow as prayed for. The respondents even served, failed to attend.

3) Heard the learned counsel for appellants-claimants and perused the material on record to decide on merits.

4) As per the evidence placed on record, covered by evidence of P.W-3, Dr.Gangadharam who treated the two injured of the two claim petitions coupled with the Ex.A-6 wound certificate of P.W-1 and Ex.A-7 wound certificate of P.W-2 in particular besides Ex.A-4 discharge summary. The P.W-1 injured-claimant of O.P. No.475 of 1999 sustained lacerated injury on the left occipital area measuring 5" into scalp deep x 2", simple, another lacerated injury on the right side of the neck, simple, measuring 5" x 3" and the third one fracture of left 5th metatarsal bone at the base (grievous). The compensation awarded is Rs.15,000/- for pain and sufferance, apart from future and past loss of income at Rs.10,000/- and medical expenses, treatment and transport charges total awarded Rs.37,000/- which requires to enhance to Rs.50,000/- for the three injuries

even two are simple serious injuries and on vital parts of the body besides the other fracture and for loss of earnings, attendant charges, transport charges, extra nourishment, medical expenses and treatment, however, to reduce the rate of interest from 9% to 7.5% p.a. So far as the other claim as per evidence of P.W-2 coupled with Ex.A-7 wound certificate, sustained dislocation of left patella, involved the knee joint activity the Tribunal awarded Rs.21,000/- in all which includes pain and sufferance Rs.10,000/-, loss of earnings Rs.7,000/-, medical expenses and treatment and transport charges Rs.4,000/-, which requires enhancement to Rs.35,000/- in total, however by reducing the rate of interest from 9% p.a. to 7.5% p.a.

MACMA No.678 of 2005:

5) In the result, the appeal is partly allowed by enhancing the compensation from Rs.21,000/- to Rs.35,000/- by reducing the rate of interest from 9% to 7.5% p.a. Rest of the terms of the award of the Tribunal holds good. There shall be no order as to costs.

MACMA No.488 of 2005:

6) In the result, the appeal is partly allowed by enhancing the compensation from Rs.37,000/- to Rs.50,000/- by reducing the rate of interest from 9% to 7.5% p.a. Rest of the terms of the award of the Tribunal

holds good. There shall be no order as to costs.

7) Miscellaneous petitions, if any pending in these appeals, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

23.03.2016

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