

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A.M.P.No.2095 of 2011

IN/AND

M.A.C.M.A No.249 of 2016

JUDGMENT:

The first respondent, owner of the vehicle, remained *ex parte* before the Tribunal and even though impleaded in the appeal, the appeal against him was dismissed for default, which is no way fatal vide expression of the Hon'ble Apex Court reported in **Meka Chakra Rao v. Yelubandi Babu Rao @ Reddemma And others**^[1]. The same is recorded. Hence, the delay is condoned subject to not entitle for the interest from the date of claim petition, if any, but from today. The appeal is taken up for hearing.

2. Heard and perused the material on record.

3. It is a claim made under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') for Rs.2,00,000/- for the injuries sustained by the claimant/appellant in a motor accident on 30.05.2008 saying that while he along with his friend coming on scooter bearing No.AP-11-P-2929 from Gundlapochampally, the driver of auto bearing No. AP-11-W-3867 of the 1st respondent insured with the 2nd respondent came from wrong side in a rash and negligent manner and dashed the scooter, due to which the claimant fell down and sustained compound fracture of both bones of left tibia and fibula besides other simple injuries. As per the evidence on record, P.W.2 is Doctor of Balaji Hospital, where the appellant was admitted and treated as inpatient from the date of accident i.e., on 30.05.2008 and discharged on 11.06.2008 after conducting operation of interlocking nailing for both bones of tibia and fibula. P.W.3 is Billing Manager of the said hospital. According to the claimant, Ex.A.5 is final bill for Rs.46,000/-. Though P.W.1 deposed as if he got bills for Rs.54,488/-, it is highly unbelievable that he could not preserve the other

bills. To consider the claim, there is compound fracture of both bones from the evidence of P.W.3 and as per Exs.A.5 and A.10 medical bills, it is clear that the appellant has incurred Rs.46,000/- towards treatment. Though it is deposed by P.W.2 as to the stiffness after operation for movements by assessing 30% permanent disability, there is no basis to give any credence to it as it is only compound fracture of both bones and discharge summary shows the said fact. Rs.30,000/- towards compound fracture of both bones, loss of earnings of Rs.7,000/- for two months, medical expenses of Rs.46,000/- as approved from the bills taken into consideration and other consortium sum like extra-nourishment, attendant charges etc., awarded by the Tribunal vide award, dated 09.03.2010, needs no way interference for enhancement. But, for to include Ex.A.10 bills of Rs.8,388/- by raising the compensation from Rs.1,02,000/- to Rs.1,10,500/-.

4. Accordingly, M.A.C.M.A.M.P.No.2095 of 2011 is ordered and the appeal is partly allowed by enhancing compensation from Rs.1,02,000/- to Rs.1,10,500/-. In all other respects, the award of the Tribunal holds good. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this appeal shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:25.01.2016
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HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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M.A.C.M.A.M.P.No.2095 of 2011
IN/AND
M.A.C.M.A (SR) No.8267 of 2011

Date: .01.2016

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[1] 2002 ACJ 828