

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA No.554 of 2010

JUDGMENT:

Impugning the award of the tribunal in O.P.No. 125 of 2008, maintained by the appellant/injured claimant against APSRTC for a compensation of Rs.1,25,000/- under Section 166 of the Motor Vehicles Act (for short 'the Act'), on contest by the APSRTC from the finding of the tribunal that the accident was the result of rash and negligent driving of the driver of the APSRTC and awarded Rs.63,800/- with interest at 7.5%p.a., as utterly low to enhance as claimed before the tribunal, filed present appeal.

2. Heard both sides and perused the material on record.
3. It is the submission of the learned counsel for the appellant by placing reliance on the expression of the Madhya Pradesh High Court in United India Insurance Co. Ltd. v. Shyam Kumar¹ that once there is a loss of leave period, entitlement to encashment for that the injured claimant is entitled to compensation, as the loss of avilment of leave is outcome of accident. Here, though the averment of half pay leave or medical leave is out of the accidental injuries

¹ 2006 ACJ 2092

sustained, there is no loss like loss of earned leave. Once such is the case, the decision has no application to the present case.

4. Now coming to the other contention of expenditure incurred towards medical expenses not considered by the tribunal concerned, there is no certificate that the employer did not reimburse the medical expenses and even for the future operation requirement for other consideration of extra nourishment, attendant and transport charges.

5. Accordingly, the appeal is partly allowed by enhancing the compensation from Rs.63,800/- to Rs.70,000/-. In other respects the award of the tribunal holds good. On deposit or execution, the claimant is permitted to withdraw the entire amount. No order as to costs.

6. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

Date:01.12.2016
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