

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA No.635 OF 2008

JUDGMENT:

The 1st claimant since died pending the claim petition by his legal representatives the claim petitioners 2 to 5 no other than his wife, two minor children and mother of the M.O.P.No.282 of 2003 filed under Section 166 of the Motor Vehicle Act,1988 (*for short, 'the Act'*) on the file of the learned Chairman of the Motor Accidents Claims Tribunal-cum-District Judge, Vizianagaram, (*for short, 'Tribunal'*) for compensation of Rs.2,00,000/- for the injuries sustained in the motor accident, dated 29.12.2002, while working as a driver of the lorry bearing AP 16 U 6577 belongs to the claim petition 3rd respondent insured with the claim petition 4th respondent, the opposite lorry bearing No.AP 7U 567 belongs to the 1st respondent insured with the 2nd respondent being driven by its driver in rash and negligent manner without blowing horn, dashed the lorry of the deceased, due to which the deceased sustained multiple injuries on his left leg and other injuries all over the body, rushed to the Government hospital, Khammam and subsequently to K.G.Hospital, Visakhapatnam, long after the injuries for which he undergone treatment, died on 23.12.2004 and the tribunal from the contest awarded compensation of Rs.16,200/- with interest at 7% p.a. vide award dated 17.02.2005, fixing liability only against the claim petition respondents 1 and 2, impugning the said quantum as utterly low, the present appeal is preferred by the claimants contending as quantum is utterly low and the same may be granted as prayed for.

2. The respondents 1 and 3 remained exparte before the tribunal and it is represented that they are not necessary parties to the appeal vide Meka Chakrarao v. Y.Baburao¹ and the same is recorded.

3. Heard the learned counsel for the respondents 2 and 4-both the insurers and perused the material on record.

4. It is true there is nothing to show much less by any post mortem report or evidence of doctor that the death was outcome of the result of the injuries which happened two years back but for few days less to the date of death and thereby what he claimed by filing the petition entitled is for the injuries even that can be succeeded by the wife, children and mother supra but not as if a death claim. The evidence on record including the P.Ws. 1 and 3 doctor, with reference to Ex.A.3 shows the first claimant (died) sustained fracture of right tibia and fibula upper 1/3rd and fracture of right medial maliculus. The P.W.3 Civil Assistant Surgeon, Vijayawada deposed that he was initially provided with treatment at Government hospital and later shifted to K.G. hospital, Visakhapatnam. What the P.W.3 deposed is having taken x-ray to the mal-united fracture, he found some stiffness of right knee joints. From his evidence he is not the person who treated initially much less issued wound certificate. No doubt even therefrom once there is a compound fracture and another single fracture supra, Rs.30,000/- towards compound fracture and Rs.15,000/- towards single fracture and Rs.15,000/- towards the treatment undergone, attendant and transport charges, extra nourishment and loss of earnings together, which comes to

¹ 2001 (1) ALT 495 DB

Rs.60,000/- is the just compensation to be awarded with interest at 7.5%p.a.

5. Accordingly and in the result, the appeal is allowed by enhancing the compensation amount of Rs.16,200/- to Rs.60,000/- by confirming the rate of interest at 7.5%p.a. awarded by the tribunal from the date of petition till realization. Rest of the award holds good. There is no order as to costs in the appeal. Consequently, pending miscellaneous petitions, if any, in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 19.09.2016
Vvr

