

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A No.2923 OF 2005

JUDGMENT:

The injured claimant, minor, aged about 6 years represented by her father and guardian, maintained O.P. No.30 of 2001 renumbered as O.P. No.372 of 2004 on the file of Motor Accidents Claims Tribunal – cum – II Additional District Judge, Nalgonda, (for short ‘the Tribunal’) against owner and insurer of LML Scooter bearing No.AP 24 B 2304, for compensation of Rs.1,50,000/- under Section 166 of Motor Vehicles Act, 1988 (for short ‘the Act’) for the injuries sustained in the accident occurred on 28.11.1999 with the averments that while the petitioner and his father were proceeding on LML Scooter, to which his father—PW.1 was also pillion rider and while they reached near Ambedkar Statue near cross roads of Khammam, one Suzuki motor cycle bearing No.AP 20 E 4352 driven by motor cyclist in a rash and negligent manner dashed the scooter, as a result the minor petitioner sustained head injury and other injuries. The 1st respondent—owner remained exparte and 2nd respondent—insurer contested by denying the petition averments and putting the petitioner to strict proof. In proof of the claim, the father of the minor petitioner was examined as PW.1 and Dr.Nagesh, who treated the minor petitioner in Kamineni Hospital was examined as PW.2 and he has placed reliance on Exs.A1 to A4 including FIR, charge sheet against 1st respondent, wound certificate and medical bills issued by Kamineni Hospital

proved through PW.2 and the insurer—R.2 filed Ex.B1 policy marked by consent. It is from the contest, the Tribunal having held that the accident was the result of motor cyclist—1st respondent's rash and negligent driving and thereby the respondents are liable to pay the compensation amount of Rs.25,000/- awarded by Tribunal and the same is impugned in the appeal as utterly low.

2) Heard learned counsel for appellant and learned standing counsel for 2nd respondent-insurer. Even notice served to 1st respondent did not choose to appear hence taken as heard. Perused the material on record.

3) As the evidence of PW.2 coupled with wound certificate and hospital summary, issued by Kamineni Hospital clearly proves that the petitioner sustained head injury near left eye lid, which is described as grievous injury though there is no permanent disability from the evidence of PW.2 and from the age of the injured petitioner and hardship being faced by him for the whole remaining life from the panic situation of him, the Court feels it is just to award an amount of Rs.15,000/- for the injury including for pain and sufferance apart from Rs.25,000/- towards medical bills, transport and attendant charges and extra nourishment enhanced to Rs.25,000/- to Rs.40,000/-.

4) Coming to rate of interest, the Tribunal awarded at 9% per annum from the date of claim petition till the date of realization, which is highly excessive and exorbitant reduced to 7.5% per annum from the date of appeal till the date of

realisation as per the settled expressions of the Apex Court in

TN Transport Vs. Raja Priya^[1] and Rajesh Vs. Rajbir Singh^[2].

5) Accordingly and in the result the appeal is partly allowed enhancing the compensation from Rs.25,000/- to Rs.40,000/- with interest at 7.5% per annum from the date of petition till realisation. No order as to costs.

6) Consequently, Miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.08.07.2016
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Date:08.07.2016

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[\[1\]](#) 2005 (6) SCC 236

[\[2\]](#) 2013 ACJ 1403