

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A.No.3202 of 2008

JUDGMENT:

The injured claimant who maintained O.P.No.144 of 2004 under Section 166 of Motor Vehicles Act for a compensation of Rs.3,00,000/- for the injuries sustained in the motor accident dated 15.03.2000 in saying while he was at Head Post Office, Hanamkonda, having visited his relatives house at Warangal, the TATA Sumo bearing No.AP-9-Q-4949 of 1st respondent insured with 2nd respondent driven by its driver in rash and negligent driving dashed the petitioner, from which he sustained injuries. From the evidence on record, the Tribunal held 1/4th contribution by the injured also when he was moving at that time going to his relatives house that of LW.3 by name Raghupati Reddy.

Coming to the compensation, he claimed that he was treated as inpatient and operated and re-operated thrice and visited NIMS for 10 to 15 times, considering the evidence the Tribunal awarded loss of earning Rs.18,000/-, transport and attendant charges Rs.20,000/-, medical expenses from the bills filed under Exs.P5 to P107 of showing only Rs.25,000/- includes for extra nourishment awarded Rs.35,000/-, pain and sufferance from the fracture and other injuries of Rs.20,000/- and for the claim of partial permanent disability from Ex.A10 Rs.50,000/- totally arrived Rs.1,48,000/- and after deduction of 1/4th negligence of the petitioner awarded Rs.1,11,000/-, for the 3/4th liability of the respondents fixing compensation directing to pay jointly and severally the same with interest @ 7.5% per annum, the contention in the grounds of appeal in fixing of contribution on the injured with no basis. FIR and charge sheet against the driver of TATA Sumo, there is nothing to show injured contributed to the

accident by running on the road at the time of accident when his evidence shows that he stood while he was to move and there is no contra evidence much less any worthy cross examination from PW.1 including from the observation to that extent at least in some area in the award of the Tribunal. It is fixing of contribution on the injured is unsustainable, but for in other respects there is no basis to show 55% is a permanent disability of the total limbs, but for mentioned as partial without even basis and Tribunal awarded for disability including pain and sufferance of Rs.75,000/- nothing to enhance.

Accordingly and in the result, the appeal is partly allowed by enhancing from Rs.1,11,000/- to Rs.1,48,000/- with interest at 7.5% p.a. however modifying the liability fixed by the Tribunal against insurer and injured, by fixing only against insurer and in other aspects the award of the Tribunal holds good.

Consequently, miscellaneous petitions, if any shall stand dismissed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 31.08.2016
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