

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA No.647 OF 2008

JUDGMENT:

The injured claimant of O.P.No.959 of 2004 maintained against the original owner, transferee owner (present owner) and Insurer of the jeep bearing No.ADF 4320 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-X Addl. District Judge, Guntur (*for short, 'Tribunal'*) for compensation of Rs.1,00,000/- for the injuries sustained in the motor accident, since the tribunal after contest, granted compensation of Rs.74,000/- with interest at 7.5%~~p~~.a. fixing liability on R.3-Insurer to pay initially to the claimant and then recover from the R.1 and R.2 vide award dated 28.09.2007, maintained the appeal impugning the said quantum as utterly low. The learned counsel for the claimant reiterated the said contentions during course of hearing.

2. The injuries sustained by the claimant from the evidence on record including that of the evidence of P.W.2 doctor Kadavala Venkateshwara Rao, with reference to Ex.A.5 medical certificate shows there is no basis to believe any disability of 40%deposed by him or even for 20%taken by the lower Court. The fracture sustained was to the right clavical, three ribs of right side and pelvis and there was no operation conducted but for gave her conservative treatment with the rest on bed with traction. Taking into consideration of these facts, what the tribunal awarded of Rs.74,000/- requires enhancement to Rs.90,000/- by confirming the rate of interest and pay and recovery.

3. Accordingly and in the result, the appeal is allowed by enhancing the compensation from Rs.74,000/- to Rs.90,000/- awarded by the tribunal by confirming the rate of interest at 7.5% p.a. and pay and recovery liability. The R.3-Insurer is directed to pay initially to the claimant and then to recover from the R.1 and R.2. The respondents shall deposit said amount within one month from today, failing which the claimants can execute and recover. It is made clear that the insurer is entitled while depositing the amount payable, if not deposited or paid any amount so far, to deposit and to approach the Tribunal to direct the RTA concerned not to register any transfer of the crime vehicle and to seek for attachment of the crime vehicle or other property of the insured as an assurance for execution and recovery in the same proceedings or under revenue recovery as per the MV Act, 1988 and also ask the Tribunal not to disburse the deposited amount to claimant (but for to invest in a bank) till such attachment order is made. However, after the same, the Tribunal shall not withhold the amount of the claimants, if there is any necessity to permit for any withdrawal but for to invest the balance in fixed deposit in a nationalized bank. No costs. Consequently, pending miscellaneous petitions, if any, in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 19.09.2016
Vvr