

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A. No.1235 of 2009

JUDGMENT :

The 2nd respondent insurer among two respondents, including the owner of the crime vehicle bearing No.AP 12 T 8361 where the injured claimant was the 2nd driver, in the claim maintained in O.P. No.2100 of 2006 for Rs.5,00,000/- since Tribunal awarded under Section 166 of the Motor Vehicles Act an amount of Rs.3,67,800/- with interest at Rs.7.5% p.a. vide award dated 24.03.2008 maintained the appeal with contentions that there is no coverage of policy risk as the policy is referred as Act policy and there is no coverage for spare driver even from basic amount of workmen compensation to two employees Rs.50/- collected, for not meant to any spare driver but for at best to driver and cleaner and what the Tribunal awarded of several sums under several heads including Rs.1,92,786/- under Ex.A-8 bill of medical expenses incurred are exorbitant and thereby sought for exoneration of the insurer and also contesting the compensation is exorbitant to reduce.

2) Whereas it is the contention of the learned counsel for the claimant-injured from the owner of the vehicle did not choose to appear, that the award of the Tribunal holds good and for this Court there is nothing to

interfere.

3) A perusal of the policy though mentioned as if Act policy is not as such, as in addition to the basic premium under Act policy, third party property damage Rs.200/- collected under IMT 20 and Rs.50/- for two workmen to the employee collected and once such is the case it covers the risk under Workmen Compensation Act for the injured claimant as he is one of the workmen. Even under the Workmen Compensation Act for the person aged about 22 years, the applicable factor is 221.37 and as per Section 4 read with Schedule IV of the Act, 60% of the sum from estimated monthly earnings to be taken and what the Tribunal awarded though it is one of the contentions of such exorbitant amount towards medical expenses not covered by Workmen Compensation Act claim to consider, so far as what the Tribunal awarded of Rs.3,67,800/- concerned but for to reduce Rs.50,000/- out of it there is nothing to interfere by this Court at this stage.

4) Accordingly and in the result, the appeal is partly allowed by reducing the compensation from Rs.3,61,800/- to Rs.3,17,800/-. Rest of the terms of the award of the Tribunal holds good. There is no order as to costs.

5) Miscellaneous petitions, if any pending, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

28.01.2016

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