

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.CMA.No.1277 OF 2009

JUDGMENT:

On the ground that a meagre compensation of Rs.1,39,716/- was granted by order and decree, dated 08.01.2007, passed in M.V.O.P.No.896 of 2003 on the file of Chairman, Motor Accidents Claims Tribunal – cum – II Additional District Judge, Guntur, as against the claim of Rs.10,00,000/- laid under Sections 166 and 163A of the Motor Vehicles Act, 1988, the present appeal is preferred by the petitioner in the said O.P. seeking to enhance the compensation.

2. Heard Sri K. Suresh Reddy, learned counsel for the appellant, and Sri Ravi Sankar Jandyala, learned counsel for respondent No.2.

3. Though service was completed on respondent No.1, none appears for him.

4. Admittedly, Disability Certificate was not filed, but the Doctors were examined as PWs.2 and 3, who have spoken about the disability of 30%. PW.3 also answered in his cross-examination that the Disability Certificate was issued by his colleague working in Sowmya Apollo Hospital, Tadepalli, Vijayawada. As could be

somehow, did not arrive to that particular aspect and without considering 30% disability spoken to by PWs.2 and 3, though, they have not issued Disability Certificate, granted Rs.60,000/- towards fractures. In view of the absence of proper evidence on record, which the appellant could have secured, certainly, there would be miscarriage of justice.

5. In that view of the matter and since the legislation is a beneficial legislation, to afford a chance to both sides to lead further evidence, in addition to the evidence already let in, and to enable the appellant to file Disability Certificate, as to the disability spoken to by PW.2, and to lead evidence by examining the witnesses connected with the Disability Certificate, the matter requires to be remitted.

6. Hence, the appeal is allowed setting aside the order and decree under challenge passed by the Tribunal and the matter is remanded to the Tribunal. Since the claim relates to the year 2003, the Tribunal is directed to dispose of the O.P. within a period of six months from the date of receipt of a copy of this order.

7. Miscellaneous Petitions, if any, pending in this appeal, shall stand closed. There shall be no order as to costs.