

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A.No.394 of 2010

JUDGMENT:

The injured claimant, who maintained MVOP No.1765 of 2006 under Section 166 of the Motor Vehicles Act (for short 'the Act'), for a compensation of Rs.3,00,000/- against the owner and insurer of the car bearing No.AP 23D 2786, saying she was going on motor cycle on 27.11.2005 towards Saroornagar from Chaintanyapuri, due to the alleged rash and negligent driving of the driver of the car coming from behind dashed her motor cycle, from which she sustained injuries vide crime No.1026 of 2005, from contest by the 2nd respondent-insurer from the 1st respondent-owner remained ex parte and from the evidence on record that of PW.1-injured claimant and PW.2-doctor with reference to Exs.A1 to A7 and Ex.B1-policy, the tribunal awarded compensation of Rs.44,200/- with interest at 7.5% p.a. on 25.02.2009 and impugning the said quantum as utterly low, maintained the present appeal.

2. Learned counsel for the claimant in support of the grounds of appeal submits that the tribunal gravely erred in not awarding compensation as prayed for, despite there is a

mild hearing problem from what PW.1 deposed she suffers from permanent disability and several amounts incurred towards medical expenses not considered by the tribunal and ignorance of the same and reasons assigned by the tribunal for that are unsustainable and baseless and hence to allow the claim, as prayed for.

3. Whereas, it is the submission of the learned counsel for the 2nd respondent-insurer from the 1st respondent-owner failed to attend even served, that award of the tribunal holds good and for this Court while sitting in appeal, there is nothing to interfere.

4. Heard and perused the material on record.

5. So far as quantum of compensation concerned, the tribunal rightly taken into consideration the final bill among Exs.A5 and A6 of what is incurred shown the final amount of Rs.24,200/- by Yashoda Super Speciality Hospital and PW.2 also proved the same vide Ex.A5 among Exs.A4 to A6, discharge summary, medical bills and medical reports. So far as incurring of other expenditure in other alleged hospitals or staying outside after discharge for the alleged treatment concerned, the tribunal rightly ignored the same from consideration for not supported by any basis. Coming to the main injury which is described as fracture of right upper clavical described in Ex.A4 and deposed by PW.2 and head

injury of sub archnoid hemohharage as grievous, the tribunal granted Rs.20,000/- which is utterly low to enhance them. There is no proof regarding mild hearing problem introduced through PW.2, who is not even the Doctor of expert in E.N.T. and for saying it is he came to know of other E.N.T. so the same is hear say with no value apart from as rightly found by the tribunal of there is no such plea in the claim petition, though the claim is long after discharge from the hospital with discharge summary and discharge summary no way mentioned the same and PW.1 also not deposed the same.

6. Having regard to the above, besides the medical expenses of Rs.24,200/- for the said two grievous injuries including loss of earnings for one month, attendant charges, transport charges, extra nourishment, it is just to award Rs.50,800/-, making total of Rs.75,000/-.

7. Accordingly and in the result, the appeal is partly allowed by enhancing the compensation from Rs.44,200/- to Rs.75,000/-. Rest of the terms of the award of the Tribunal holds good. There is no order as to costs.

8. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

Date:23.11.2016
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