

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA No.3037 OF 2007

JUDGMENT:

The 2nd respondent-Insurer among the two respondents including the owner of the auto bearing No.AP15V 5617 in O.P.No.259 of 2006 under Section 163-A of the Motor Vehicles Act (for short, 'the M.V.Act), on the file of the learned Chairman, Motor Accidents Claims Tribunal–cum-II Additional District Judge, Karimnagar, at Jagtial (*for short, 'Tribunal'*) filed by injured claimant for sustaining injuries in the motor accident dated 02.09.2005 for a claim of Rs.5,00,000/-, since granted Rs.3,36,000/- with interest at 7.5% p.a. by fixing liability against both the respondents (Insurer-appellant herein and owner of the crime vehicle), by award dated 05.05.2007 holding that there was amputation to the right leg above the knee and took 50% permanent disability as per the Schedule of the Workmen's Compensation Act, by assessing the earnings at Rs.30,000/- per annum for the accident of 2005. Impugning the said award, the Insurer preferred the present appeal contending that the quantum as excessive and exorbitant to be reduced.

2. Heard learned counsel for the appellant and also the learned counsel for the 1st respondent-claimant from the 2nd respondent herein- owner of the crime auto, who remained exparte before tribunal though served, did not turn up taken as heard.

3. It is also the contention of the appellant/Insurer that there is contributory negligence on the part of the injured. In fact, the injured was proceeding on the motor cycle and the auto was coming in the opposite direction at the time of the accident. The Injured claimant sustained amputation of right leg from crush injury above the knee which could not be possible from his negligence if at all from the negligence of the auto driver which ran over the right leg above the knee after accident. Thereby once the tribunal came to conclusion that the accident was result of the negligent driving of the driver of the auto of the 1st respondent, for this Court while sitting in appeal there is nothing to interfere.

4. Accordingly and in the result, the appeal is dismissed. There is no order as to costs in the appeal. Consequently, pending miscellaneous petitions, if any, in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:04.08.2016

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