

HON' BLE Dr. JUSTICE B. SIVA SANKARA RAO

MACMA No. 2060 of 2007

JUDGMENT :

The injured-claimant maintained the claim under Section 166 of the Motor Vehicles Act for Rs.1,50,000/- for the injuries sustained in the motor accident dated 28.10.2003 against the owner and insurer of the auto bearing No.AP 16 TT 930 and the owner and insurer of the motor cycle bearing No.AP 16 AC 3527 with the averments that he along with two other passengers were traveling in the auto and two persons were coming in the back and the auto dashed, as a result the persons fell down and he also fell down from the auto and sustained the injuries vide Crime No.151 of 2003 of Tiruvuru police station. According to him he joined in Global Medical Centre, M.G.Road, Vijayawada and undergone treatment. The evidence of P.W-2, doctor, with reference to Ex.A-2 wound certificate, Ex.A-5 F.I.R, Ex.A-1 charge sheet and Ex.A-6 M.V.I. report shows the involvement of the auto and it is the claim that he was traveling, the Tribunal mainly dismissed the claim on the ground that the so called fall of him from auto is doubtful as he claimed that he is sitting on the back seat of the auto along with three passengers and he was in the middle. Once the police filed charge sheet by examination of him and also the injured rider of the bike among other

witnesses, which discloses that he also sustained injuries in the accident, the Tribunal could not have only relied on the stray sentence to disbelieve the entire substantial evidence on record in dismissing the claim instead of allowing for the one fracture injury and other simple injury.

2) Having regard to the above, the claim can be allowed to an extent of Rs.35,000/- for the fracture injury, other simple injury, medical expenses, treatment, loss of earning, attendant charges and transport charges.

3) In the result, the appeal is partly allowed by granting compensation of Rs.35,000/- with interest at 7.5%p.a. from the date of petition till the date of realization and all the respondents are jointly and severally liable to pay the compensation and are hereby directed to deposit the compensation amount with interest in any nationalized bank within one month from the date of receipt of this order. After deposit, the petitioner/ appellant is entitled to withdraw the entire amount on permission by the Tribunal. Rest of the claim made by the appellant/ petitioner is hereby dismissed. There shall be no order as to costs. Pending miscellaneous petitions, if any, in both the appeals shall stand cancelled.

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Dr. B. SIVA SANKARA RAO, J

19.09.2016  
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