

HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A.No.4755 OF 2008

JUDGMENT:

The injured claimant who maintained the claim in O.P.No.564 of 2005 under Section 166 of the Motor Vehicle Act,1988 (*for short, 'the Act'*) on the file of the learned Chairman of the Motor Accidents Claims Tribunal-cum-I Addl. Metropolitan Sessions Judge, (*for short, 'Tribunal'*), for compensation of Rs. 5,00,000/- against the respondents 1 and 2, owner and Insurer respectively of the lorry bearing No.AAT 5055 for the injuries sustained in the accident dated 25.02.2004, from the contest by the 2nd respondent-Insurer for the 1st respondent-owner remained exparte, the tribunal by its award dated 18.09.2008 granted of Rs.80,000/- with interest at 6%p.a. fixing joint liability against both the respondents, preferred the appeal impugning said quantum as utterly low, with the contentions in the grounds of appeal vis-à-vis the oral submissions during the course of hearing that the tribunal gravely erred in not considering huge amount incurred for nearly Rs.4,00,000/- by the claimant who went in coma from the severe injuries sustained and for the prolonged treatment effecting his life source from the neurological surgeries and what the tribunal awarded of Rs.80,000/- out of it of Rs.20,000/- for the injuries besides Rs.60,000/- for medical expenses since utterly low, to allow the appeal by granting as prayed for.

2. Whereas, the 2nd respondent-Insurer, from the 1st respondent did not choose to contest, submits that the award of the tribunal holds good and for this Court while sitting in appeal, there is nothing to interfere.

3. Heard and perused the material on record.

4. It is the case of the petitioner that on 25.02.2004 when he was proceeding on his scooter bearing No.AP7A 9306, at Eshwarpalli ring road he stopped his scooter and standing beside it, the driver of the lorry of the 1st respondent drove in rash and negligent manner in high speed, dashed his scooter and himself, from which he fell down and sustained the injuries and was shifted to Jubilee Hills Apollo hospital and Rayadurg police registered the crime No.25 of 2004 u/ sec.337 IPC vide Ex.A.1 FIR and later filed Ex.A.2 chargesheet against the driver and he was operated on the left temporal EDH with mass effect, left fronto temporal craniectomy done and evacuation of EDH done and he was discharged from the hospital on 13.03.2004 for about 17 days after the accident, the tribunal from said evidence held that the accident was the result of rash and negligent driving of the driver of the lorry and coming to the compensation, the petitioner cause examined the doctor D.Raja Reddy neurosurgeon in Apollo hospital, Jubilee Hills, who treated the claimant as P.W.2 deposed that the claimant sustained head injury and was admitted in the hospital on 25.02.2004 and at the time of admission there was bleeding from left ear and he was unconscious with Glasgow coma, and he was incubated in casualty itself and CT scan of the brain revealed extradural hematoma on the left side and contusion of the brain on the right side and he was operated immediately on emergency and then he was slowly recovered and discharged on 13.03.2004 and later attended as out-patient and the injury was serious in nature and physically he is well but emotionally he may have problems and Eption tablet he has to take rest of life and he might need any further operation. In the cross-examination he deposed that as per Ex.A.4 case discharge summery, he advised P.W.1-claimant to take some tablets for prescribed period and in future cranioplasty might be needed subject to

willingness of patient. He deposed that the P.W.1-claimant is physically well with the ability to work, walk, speak and earn normally and he can continue the type of work he was doing. The tribunal therefrom observed that the claimant regained normalcy with no future complication and there is no disability. From the evidence of P.Ws. 1 and 2 and by taken consideration of the said evidence with reference to the Ex.A.6 medical bills, the tribunal awarded Rs.60,000/- towards medical expenses and treatment and Rs.20,000/- for the injury and pain and sufferance. In fact, the Ex.A.6 shows the consolidated bill of Apollo for Rs.1,50,000/- and odd and there was discount given on Rs.20,000/-. If such is the case, the amount incurred clearly speaks of Rs.30,000/- and for nothing shows from the date of deposition even of any future requirement for operation from any further examination to award. So far as the head injury is concerned, what the tribunal awarded of Rs.20,000/- even requires enhancement to Rs.30,000/- and loss of earnings of Rs.5,000/- for one month, attendant charges and transport of Rs.5,000/- in all comes to Rs.1,70,000/- which is just compensation to award for which the claimant is entitled.

5. In the result, the appeal is allowed in part by enhancing the compensation granted by the tribunal of Rs.80,000/- to 1,70,000/-with interest at 7.5% p.a. from the date of petition till realization. Rest of the award of the tribunal holds good. There is no order as to costs. Miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 28.10.2016
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