

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A. No.623 of 2016

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JUDGMENT:

The injured claimant filed the appeal having been aggrieved by the order/ award passed on 23.12.2009 in M.V.O.P. No.79 of 2008 on the file of Motor Accidents Claims Tribunal – cum- V Additional District Judge, Rayachoti (for short ‘the Tribunal’) under Section 166 of M.V. Act for Rs.2,00,000/- for the injuries sustained in the motor accident dated 03.08.2005 alleging rash and negligent driving of the auto of 1st respondent insured with 2nd respondent and due to the same he could not control the Vehicle and the Tribunal having held the accident was the result of driver of 1st respondent and awarded compensation of Rs.61,900/- along with interest at 7.5% per annum for the injuries sustained.

2) It is now impugning the same, the present appeal is filed stating that the Tribunal ought to have considered the evidence of PW.2—Dr.C.Sanjeevaiah, who deposed that the injured suffered 30% permanent disability and the Tribunal erred in adopting multiplier method and thereby, the Tribunal ought to have awarded compensation as prayed for.

3) Respondent No.1—owner of the vehicle remained exparte before the Tribunal and even impleaded in this appeal dismissed for default, which is no way fatal to maintainability of the appeal vide ***Meka Charadhara Rao vs Yelubandi Babu Rao***^[1] and the same is recorded.

4) Learned counsel for 2nd respondent—insurer stated that the quantum of compensation awarded by the Tribunal is excessive and there is nothing to interfere, hence to dismiss the appeal.

5) Heard and perused the material on record.

6) Coming to the merits of the appeal, there is a mal-united fracture of both bones of right hip, which is not in dispute. Except Ex.A2—wound certificate, there is no basis for the evidence of PW.1 to say that he suffered 30% disability. Hence, the Tribunal taken the disability suffering by petitioner at 5% at para No.11 of the award, having rightly not believed the 30% disability even PW.2 deposed that the injured suffered from 30% with reference to so-called disability certificate issued by him as Ex.A4.

7) There is not even any observation by the Tribunal that by examination of the injured –PW.1 personally there is found any disability or even any malunion. However, coming to the quantum of compensation, what the Tribunal awarded of Rs.61,900/- is concerned for the compound fracture of both bones, medical expenses incurred for prolonged treatment, for loss of earnings by nearly three months, attendant charges, transport charges, extra nourishment which requires enhancement to Rs.70,000/-.

8) Accordingly and in the result the appeal is partly allowed by enhancing the compensation from Rs.61,900/- (Rupees Sixty one thousand nine hundred only) to

Rs.70,000/- (Rupees Seventy thousand only) with interest at 7.5% per annum. However, the enhanced amount shall carry interest at 7.5% per annum only from 04.02.2016 till realization. In other respects the award of the Tribunal holds good.

9) Consequently, miscellaneous petitions, if any pending in this Appeal shall stand closed.

Dr. B. SIVA SANKARA RAO, J

04.02.2016
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HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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Date: 04.02.2016

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