

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A.No.2197 OF 2009

JUDGMENT:

Heard the learned counsel for the claimant and also the insurer from the 1st respondent served, failed to attend, taken as heard and perused the material on record.

2) The injured claimant aged about 50 years as on the date of accident claiming monthly income of Rs.4,000/- per month by doing as Mason. The accident dated 03.09.2006 while he is proceeding from his bicycle claiming due to the rash and negligent driving of the tractor driver of 1st respondent AP 36 V 1419 insured with 2nd respondent covered by Ex.B-1 policy. The petitioner sustained crush injury to his right leg which resulted amputation above knee and there is evidence of P.W-2 and also of P.W-3 regarding the disability certificate of 80% issued under Ex.A-7 by the medical bill to which he is a member in proof. There is no proof regarding the earnings. It is not clear how the Tribunal could take for it is to mention Rs.7,500/- p.m. even the claim is Rs.4,000/- p.m. only and even as per **Latha Wadhwa vs. State of Bihar**^[1] in the absence of proof of earnings, Rs.3,000/- per month to be taken with proportionate increase from the date of expression to the date of accident supra, even taken at Rs.3,500/- p.m. 80% therein comes to Rs.2,800/- p.m. Then the total compensation would come to Rs.3,69,600/- (2800 x 12 x 11). Apart from it medical expenses of Rs.31,500/-, attendant charges, transport charges, extra nourishment even granted Rs.8,900/-, Rs.4,10,000/- is the just compensation and fracture to the three or four ribs even taken Rs.1,50,000/- it comes to Rs.4,25,000/- is the just compensation to enhance from Rs.3,01,450/-.

3) In the result, the appeal is partly allowed enhancing the compensation from Rs.3,01,450/- to Rs.4,10,000/-. The interest on the enhanced amount shall be paid only from 16.07.2008 till the date of

realization, since the claimants filed petition to condone the delay in filing the appeal on 16.07.2008. Rest of the terms of the award of the Tribunal holds good. There is no order as to costs. Miscellaneous petitions pending, if any, in this appeal shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 05-02-2016

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[\[1\]](#) (2001) 8 SCC 197=AIR 2001 (SC) 3218