

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A No.593 OF 2005

JUDGMENT:

The injured claimant filed O.P. No.1025 of 1999 on the file of Motor Accidents Claims Tribunal – cum – I Additional District Judge, Nizamabad (for short ‘the Tribunal’) against four respondents i.e., owner and insurer of Temo Trax Jeep bearing No.AP 25 D 9001 and owner and insurer of lorry bearing No.KL 5C 5785 for compensation of Rs.4,00,000/- under Section 166 of M.V.Act (for short ‘the Act’) for the fracture of T7 and dislocation of dorsal spine and lacerated wound on right parietal region, contusion on left parietal region and contusion on left occipital region sustained by the injured claimant on 10.01.1999 while he was traveling in Tempo Trax Jeep bearing No.AP 25 D 9001 of 1st respondent, insured with 2nd respondent, from Nizamabad to Shabarmalai and when the jeep reached near Sheria Village Sivar on Mangalore to Shabarimalai road at 2.00 am, the opposite coming lorry bearing No.KL 5C 5785 of the 3rd respondent wrongly shown as if 2nd respondent and 4th respondent are one and the same though Ex.A6—policy shows the vehicle of R3 insured with same insurance company, however of Kottayam Branch. Respondents 2 and 4 contested the matter through advocate and respondents 1 and 3—owners of the two vehicles remained exparte and after contest, the Tribunal having held that the accident was the result of composite negligence of driver of two vehicles viz., respondents 1 and 3 and fixed joint

liability to the apportionment by awarding compensation of Rs.20,000/- with interest at 9% per annum vide award dated 01.11.2004. In fact, the injured claimant died during pendency of claim petition and her legal heirs were brought on record i.e., petitioners 2 to 6, who filed this appeal against the self same respondents.

2) The contentions in the grounds of appeal are that the compensation awarded by the Tribunal is utterly low and the Tribunal ought to have awarded compensation as prayed for.

3) The contention of the learned counsel for 2nd respondent—insurer is that the award of the Tribunal holds good and for this Court while sitting in appeal there is nothing to interfere.

4) Heard learned counsel for appellants and learned standing counsel for respondents Nos.2 and 4—insurer. Perused the material on record.

5) Undisputedly, there are no cross objections to interfere with the findings of the Tribunal to the extent of composite negligence of both vehicles. It is also not in dispute that both vehicles are insured with different branches of same insurance company one is at Nizamabad and the other at Kottayam Branch, Kerala State.

6) So far as the quantum of compensation concerned as referred supra, there is one fracture and two simple injuries of which, one is lacerated injury and the other is contusion

among the two and there are no medical bills filed but for injury certificate, discharge summary and X-ray showing the fracture of T7. The accident was dated 10.01.1999. Taking into consideration of these facts, a sum of Rs.20,000/- for the fracture of injury and Rs.5,000/- for the two simple injuries including lacerated injury and further a sum of Rs.15,000/- towards medical expenses, transport charges, loss of earnings, extra nourishment and attendant charges is just to award. The record shows the petitioner undergone treatment in three hospitals at different places and is native of Nizamabad and for the treatment originally stayed near Mangalore for some time.

7) Accordingly and in the result, the appeal is partly allowed by enhancing the compensation from Rs.20,000/- (Rupees twenty thousand only) to Rs.40,000/- (Rupees forty thousand only). However, reducing the rate of interest from 9% per annum to 7.5% per annum with equal liability on both owners (respondents 1 and 3) to indemnify. No order as to costs.

8) Consequently, Miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.08.07.2016
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HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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