

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO
MACMA MP No.3805 of 2011 in MACMA No.370 of 2016 &
MACMA No.370 of 2016

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COMMON JUDGMENT :

Delay in filing the appeal is condoned subject to condition that the claimant is entitled the interest on the enhanced amount from today only.

2) Heard the learned counsel for the claimant/appellant and learned counsel for the 2nd respondent-insurer. The 1st respondent owner of the lorry bearing No.AP 12 T 3085 even remained exparte before the Tribunal and impleaded in the appeal and dismissed for default, which no way fatal to the appeal vide **Meka Chakra Rao v. Yelubandi Baburao**^[1].

3) The claimant/injured filed the claim petition in O.P. No.600 of 2006 under Section 166 of the Motor Vehicles Act for a sum of Rs.10,00,000/- for the multiple injuries sustained in the accident in the motor accident dated 25.05.2006 while he was traveling in A.P.S.R.T.C bus bearing No.AP 11 Z 1504 towards Narketpalli, due to rash and negligent driving of the crime lorry of the 1st respondent, insured with the 2nd respondent, the lorry dashed the bus where she was traveling and she sustained the multiple injuries. As per Ex.A-2 medical certificate, Ex.A-3 discharge summary of Kamineni

Hospital coupled with the evidence of P.W-3, Dr.Ravinder Reddy, P.W-4 C.Kamraj, ortho surgeon, she sustained compound type III fracture of right femur and it resulted in amputation on 27.05.2006 above knee of said right lower limb as there is crush injury of the compound III C fracture of both bones of the right leg. This amputation injury is covered by injury No.1 and 3 of the deposition of P.W-3, further there are rib fractures of 5th to 8th, four ribs on right side and there is a fracture of right radius plus compound type III B fracture of right humerus to say the right hand at 2 places above elbow and below elbow. The Medical Board issued the disability certificate of 70% of permanent in nature covered by Ex.C-2 though Ex.A-4 disability certificate speaks as if 80% disability which no way describes the stump what is remained above knee of the right leg to consider, whether it is within item No.17 or 18. Thus, the Medical Board Certificate of 70% disability rightly taken by the Tribunal. The claim as a tailor claimed earning Rs.3,000/- per month, the Tribunal therefrom awarded by considering the age about 25 years, taken multiplier 18, the compensation for 70% permanent disability Rs.4,53,600/-. There is no dispute on that count. In regard to the medical bills, the final discharge summary covered by Ex.A-9 is that Rs.2,92,000/- and Ex.A-7 and A-8 are proceeded to it, the Tribunal in all awarded by scanning the bills for Rs.2,00,000/-.

4) Now, coming to the other injuries, the Tribunal awarded only Rs.10,000/- for pain and sufferance Rs.10,000/- towards extra nourishment and transport charges. In fact, as referred supra, from the evidence of P.W-4 there is a mal union of the right hand compound III B fracture of right humerus leave about the other fracture of right ribs. Though there is an exaggeration of P.W-4 as if she cannot even take her hand to mouth, she deposed before the Court, she filed the claim petition with her signatures, she signed the deposition with right hand and it is not even her case that she unable to eat food to say any permanent disability therefrom and the avocation of tailoring though claimed 100% disability for not increase the permanent disability than that of 70%. So far as the pain and sufferance in relation to the fractures including Type III fractures of right humerus including fracture and the four rib fractures as the Tribunal did not award any amount beyond Rs.10,000/- it requires enhancement to Rs.60,000/-. Apart from it, it is though not specifically stated submitted the claimant even for the tailoring avocation requires an artificial limb to her right leg, thereby it is just to consider Rs.50,000/- towards artificial limb insertion including to overcome the future functional disability of the rest of her life.

5) In the result, the appeal is partly allowed by enhancing the compensation from Rs.6,73,600/- to

Rs.7,75,000/-, however, the interest on the enhanced amount shall be calculated from today till the date of realization. In all other respects, the award of the Tribunal holds good. There shall be no order as to costs.

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

Dr. B. SIVA SANKARA RAO, J

Date: 25-01-2016

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[\[1\]](#) 2001(1)ALT 495 DB