

**HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO**

**C.M.A.No.1282 of 2004**

**ORDER:**

The injured claimant of O.P.No.1771 of 2001 maintained against the owner and insurer of the auto bearing No.AP 25 T 7771 under Section 166 of the Motor Vehicles Act for Rs.1,00,000/- for the injuries sustained in the motor accident dated 13.08.2001 from the auto turned turtle, while he was traveling as passenger from which sustained injuries.

2. After contest the tribunal held that the accident was the outcome of rash and negligent driving of the driver of the auto. Coming to the quantum of compensation, the tribunal awarded Rs.29,988/- with interest at 9% p.a. with observation that the claimant sustained fracture of left upper arm besides two simple injuries as per evidence on record with reference to wound certificate issued by the Government Hospital, Bhainsa, there from shown referred to Government Hospital, Nizamabad to say allegedly undergone treatment thereafter by a private Doctor, by name, Dr.R.Bhupathi Reddy and the alleged incurring of Rs.10,975/- there for, said doctor was not even examined.

PW.2-Dr.T.Narsing Rao was not the doctor, who treated in the hospital of Dr.R.Bhupathi Reddy even to give any credence to the disability stated as if he sustained 50% permanent disability, leave about credence of Dr.T.Narsing Rao from the observation by this Court many a time about unreliability from his incredibility.

3. The appeal maintained is impugning said quantum as

utterly low with the contention that the tribunal ought to have been taken into consideration of the disability and interest ought to have been awarded at 12% p.a.

4. Heard both sides and perused the material on record.

5. From the wound certificate placed reliance by the petitioner covered by Ex.A2 there is a fracture besides two simple injuries as discussed supra. Said Dr.R.Bhupathi Reddy allegedly treated in private hospital was not examined. There are no x-rays filed even in proof of the so called fracture he sustained but for Ex.A2-wound certificate even to know the nature of the injury there from it is not even the case of PW.2 that he obtained fresh X-ray and examined there from to issue any such disability certificate. As observed supra for alleged treatment by Dr.R.Bhupathi Reddy, private doctor by incurring of Rs.10,975/- rightly that was not taken into consideration by the tribunal for said Dr.R.Bhupathi Reddy was not examined and there is no basis to the claim of the same.

6. Having regard to the above, only for the fracture and two simple injuries including for pain and sufferance, loss of earnings, attendant charges and transport charges and medical expenses, what the tribunal awarded of Rs.29,988/-for the accident dated 13.08.2001 requires enhancement to make it Rs.40,000/- in toto, however by reducing rate of interest from 9% to 7.5% p.a.

7. Accordingly, the appeal is partly allowed by enhancing compensation from Rs.29,988/- to Rs.40,000/- and reducing rate of interest 9% to 7.5% p.a. from the date of claim petition till realization. No costs.

8. Miscellaneous petitions, pending if any, shall stand

closed.

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**Dr. B. SIVA SANKARA RAO, J**

**Date:10-06-2016**

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