

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CMA No.3605 OF 2004

JUDGMENT:

The injured claimant in O.P.No.748 of 2001 maintained claim petition under Section 166 of the Motor Vehicles Act (for short, the M.V.Act') on the file of the I Additional Motor Accidents Claims Tribunal, Nellore, against the two respondents viz; owner and Insurer of the crime vehicle (lorry) bearing No.MP 14 B 3141 for compensation of Rs.1,50,000/- with the averments that he claimed as cleaner along with driver by name Muralidhar were proceeding to Nellore town after having repairs to their vehicle (lorry) bearing AP-1T-9979 at Auto Nagar and when reached near railway gate, Vedayapalem, the crime lorry being driven by its driver in rash and negligent manner, hit the lorry in which the petitioner was proceeding, at the left side door by overtaking on wrong side and went away without stopping and they overtook the crime lorry and stopped at the right side margin near current office and when tried to stop the driver of Crime lorry, he drove away in a negligent and rash manner and hit the claimant and caused the accident, as a result, he sustained injuries and was shifted to Government Headquarters hospital, Nellore and from there shifted to Bollineni Hospital, Nellore where the claimant was treated over the pelvis fracture and the tribunal on contest held the accident was the result of rash and negligent driving of the driver of the lorry of the 1st respondent-Insurer with the 2nd respondent, from the contest by the Insurer from the owner of the vehicle remained exparte, awarded compensation of Rs.31,000/- with interest at 9%p.a. under the impugned award supra from which the present appeal is maintained saying the quantum is utterly low.

2. Heard the learned counsel for the appellant-claimant and also the learned counsel for the 2nd respondent-Insurer of the appeal even

the 1st respondent-owner of the vehicle impleaded dismissed for default, for not taking fresh notice which no way fatal to the maintainability of the appeal as per **Meka Chakrarao v. Yelubandi Baburao**¹ and the same is recorded.

3. It is the submission of the learned counsel for the Insurer that the award of the tribunal holds good and for this Court while sitting in appeal, there is nothing to interfere with the award of the tribunal but for rate of interest to be reduced from 9% p.a. to 7.5% p.m. as per the settled law and sought for dismissal.

4. The evidence on record more particularly that of P.W.1 and doctor P.W.2 with reference to Exs.A.1 to A.3 including the wound certificate and out-patient admission card clearly speak among the four injuries but for three are simple, and second injury from the X-ray and radiologist report is pelvic fracture. The P.W.2 doctor deposed about the operation conducted in Bollineni hospital after initial treatment in Government hospital which is a critical operation that requires minimum of Rs.50,000/- towards expenses, however the tribunal for no medical bills of hospital charges produced, awarded only Rs.4000/- for the medical and incidental expenses, Rs.5,000/- towards transport, extra nourishment and damage to clothing, Rs.2,500/- for loss of past earnings and Rs.19,500/- towards pain and sufferance for the four injuries including fracture referred supra. Since the accident was dated 16.09.2001 taking into consideration of the costs of living as on that date, it is just to award Rs.20,000/- towards pelvic fracture, Rs.5000/- for the other 3 simple injuries including for one laceration and the others incised injuries and Rs.9000/- towards extra nourishment, transport and attendant charges and clothing damage, Rs.6000/-

¹ 2001 (1) ALT 495 DB

towards loss of earnings for two months and Rs.10,000/- towards medical expenses and treatment for no bills or prescriptions filed, in all it comes to Rs.50,000/- which is just to ward, however by reducing rate of interest from 9% p.a. to 7.5%p.a. as per **Rajesh v. Rajbir Singh**².

5. Accordingly and in the result, the appeal is allowed in part by enhancing compensation of Rs.31,000/- granted by the tribunal to Rs.50,000/-, however, by reducing rate of interest from 9% p.a. to 7.5%p.a. Rest of the award holds good. There is no order as to costs in the appeal. Consequently, pending miscellaneous petitions, if any, in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:08.08.2016
Vvr

² 2013(4)ALT 35(SC)