

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CMA No.4083 OF 2004

JUDGMENT:

The injured claimant in O.P.No.324 of 1998 maintained the claim for compensation of Rs.1,50,000/- under Section 166 of the Motor Vehicle Act,1988 (*for short, 'the Act'*) on the file of the learned Chairman of the Motor Accidents Claims Tribunal-cum-District Judge, Nizamabad (*for short, 'Tribunal'*), against the owner and Insurer of the crime lorry bearing No.AP-1/T 2786, the tribunal since awarded only Rs.5,000/- with interest at 9%p.a. vide its award dated 24.07.2004, preferred the present appeal impugning the same with the contentions in the grounds of appeal as well as during arguments that the tribunal ought to have awarded compensation as prayed for and ought to have considered the Ex.A.4 disability certificate issued by the P.W.2 doctor by name Dr.T.Narsing Rao who also deposed in proof of the Ex.A.4 certificate, hence to allow the appeal as prayed for.

2. Whereas, it is the contention of the learned counsel for the Insurer that Ex.B.1 wound certificate of the petitioner shows that he was treated for the simple injuries by doctor Shobha and there is no bony injury from the X ray taken up, thereby the evidence of P.W.2 has no credibility and thus Ex.A.4 does not have any probative value and thereby sought for dismissal and the interest awarded also excessive to be reduced.

3. Heard and perused the material on record.

4. The award of the tribunal itself speaks from paragraph 14 with reference to the evidence of P.W.2 and Ex.A.4 disability certificate more particularly from non-filing of the Injury certificate from the Government hospital, Nizamabad where he was treated as per Ex.A.1 chargesheet filed by him by doctor Shobha where he was in-patient on

15.03.1998 on the date of accident and also from Ex.B.1 wound certificate filed by the Insurer shows a lacerated injury to the left leg exposing bone muscle and X-ray No.191 dated 15.03.1998 shows no any bony injury thereby discharged him.

5. It is from the said evidence, there is no basis to say that he sustained any fracture of both bones of left leg much less any disability to consider by giving credence to the evidence of P.W.2 and Ex.A.4 disability certificate. But what the tribunal awarded is since utterly low it is just to enhance the same to Rs.20,000/- more particularly from the left leg bone muscle exposed from the lacerated injury by reducing rate of interest from 9%to 7.5%p.a.

6. In the result, the appeal is partly allowed by enhancing the compensation from Rs.5,000/- to Rs.20,000/- however, by reducing the rate of interest from 9%p.a. to 7.5%p.a. Rest of the award holds good. No costs. Consequently, pending miscellaneous petitions, if any, in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:30.08.2016
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