

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

C.M.A Nos. 1672 and 2657 of 2004

COMMON JUDGMENT:

The injured claimants maintained M.V.O.P. Nos.372 and 374 of 1993 on the file of Motor Accidents Claims Tribunal – cum – I Additional District Judge, Guntur, (for short ‘the Tribunal’) against owner and insurer of lorry bearing No.APH 1764, for compensation of Rs.4,00,000/- and Rs.1,00,000/- under Section 166 of Motor Vehicles Act, 1988 (for short ‘the Act’) for the injuries sustained in the accident occurred on 03.03.1993 and the Tribunal in these two matters along with M.V.O.P. Nos.375 of 1993 and 467 of 1993 maintained by other claimants, all saying while they were proceeding in a tractor-cum-trailor, the lorry of 1st respondent came in opposite direction and in a rash and negligent manner dashed the tractor-cum-trailor, due to which the accident occurred. The Tribunal from the evidence of PWs.1 to 5 of whom, PW.3—Dr K.Bapaiah, who treated them in Government Hospital, Vijayawada and with reference to Ex.A1 to A9 including wound certificate, FIR apart from case sheet of respective injured, awarded Rs.1,00,000/- in M.V.O.P. No.372 of 1993 and Rs.30,000/- in M.V.O.P. No.374 of 1993 with interest at 12% per annum respectively. It is impugning said quantum as utterly low, the two claimants maintained the two appeals supra.

2) Heard learned counsel for the appellants, learned standing counsel for 2nd respondent—insurer and perused the material on record.

3) A perusal of the wound certificate in M.V.O.P. No.372 of 1993 (CMA No.2657 of 2004) shows there is no any fracture to the spinal card and from PW.3, Doctor's evidence to believe nothing reflects from Ex.A4—wound certificate or Ex.A5—case sheet of the injured Sivaiah. Thus, for the fracture and three simple injuries including laceration, for the medical expenses, treatment, loss of earnings, attendant charges and transport charges inclusive even there is nothing to enhance but for no cross objections to reduce the compensation. Thus, the C.M.A. No.2657 of 2004 is liable to be dismissed.

4) Coming to C.M.A. No.1672 of 2004 relating to the injured Sambaiah in M.V.O.P. No.374 of 1993, Ex.A3—wound certificate and Ex.A6—case sheet show there is a fracture of humerus and wrist drop besides some injuries of which, one is a crush injury of left middle finger and left index finger. The Tribunal, considering the evidence, granted Rs.30,000/- as compensation. Thus, from nature of the injuries sustained, pain and sufferance, loss of earnings, transport, attendant charges, medical expenses and treatment it requires to enhance from Rs.30,000/- to Rs.45,000/-.

5) Accordingly and in the result,

- a) C.M.A. No.1672 of 2004 is allowed in part enhancing the compensation from Rs.30,000/- to Rs.45,000/- with interest at 12% per annum from the date of petition till realisation.

b) C.M.A No.2657 of 2004 is dismissed confirming the compensation awarded by the Tribunal.

c) No order as to costs.

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

Dr. B. SIVA SANKARA RAO, J

Dt .05.08.2016
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