

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CMA No.4396 OF 2003

JUDGMENT:

The 2nd respondent-APSRTC among the two respondents (driver of the bus and the APSRTC represented by its Managing Director respectively) of the claim petition O.P.No.790 of 2001 in the claim filed by the injured in O.P.No.790 of 2001 on the file of the learned Chairman, Motor Accidents Claims Tribunal–cum-II Addl. District Judge, Kadapa (for short, 'the Tribunal') filed u/sec. 166 of the Motor Vehicle Act,1988 (*for short, 'the Act'*) for claim of Rs.2,41,500/- (Rupees two lakhs forty one thousand and five hundred only), by the injured but the tribunal by its award dated 11.08.2003 granted Rs.2,15,000/-(Rupees two lakhs fifteen thousand only) with interest at 9%p.a. fixing liability against the Insurer(appellant herein), impugning the same, preferred the present appeal with the contentions in the grounds of appeal that said quantum as excessive so also rate of interest and also on the ground that the injured contributed to the accident while crossing road without observing the traffic and guarding the vehicle (APSRTC Bus bearing No. AP 10Z 825) passing by for no fault of the driver of the vehicle thereby in saying tribunal did not consider this aspect of driver of claim petition of R.2 has no negligence but for on the part of the injured and sought for setting aside the award of the tribunal by dismissing the claim.

2. Heard the learned counsel for the appellant. It is endorsed that the R.1-driver of claim petition is not a necessary party in the appeal. It is the contention of the learned counsel for the claimant, but for no cross-objections, that what the tribunal awarded is utterly low and finder of last opportunity is to the bus driver and there is no negligence on the part of the injured thereby sought for dismissal of the appeal. Perused the material on record.

3. Even taken for arguments sake the injured was also

contributed to the accident by crossing road without observing the crime bus, that can hardly be taken for 20% contribution only. What the tribunal awarded of Rs.2,15,000/- requires no interference by this Court as the injured hardly aged about 5 to 6 years at the time of the accident required artificial limb and suffered lifelong.

4. In the result, the appeal is allowed in part with no costs by confirming the compensation awarded by the tribunal but reducing interest from 9% p.a. to 7.5% p.a. from today only till realization. Rest of the terms of award holds good. Consequently, miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 17.02.2016

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