

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A No.2958 OF 2005

JUDGMENT:

The injured claimant, who maintained O.P. No.1768 of 2001 on the file of Motor Accidents Claims Tribunal –cum –IX Additional Chief Judge, City Civil Court, Hyderabad (for short 'the Tribunal') against owner and insurer of Santro Car bearing No.AJ/ TR 267, for compensation of Rs.2,50,000/- under Section 166 of Motor Vehicles Act, 1988 (for short 'the Act') for the injuries sustained in the accident occurred on 29.04.2001, from the contest of 2<sup>nd</sup> respondent—insurer, what the Tribunal awarded of Rs.1,14,059/- with interest at 9% per annum vide award dated 25.01.2005, maintained the appeal.

2) The contentions in the grounds of appeal vis-à-vis oral submissions of the learned counsel for appellant are that the Tribunal gravely erred in not taking the permanent disability at 50% as deposed by PW.2—Dr. Subhash Rao and even went wrong in taking at 20% permanent disability from not complying multiplier method but for went wrong in taking fixed sum and also went wrong in granting medical expenses of Rs.58,559/- despite taken the bills for a Rs.78,078-48 ps and thereby sought for allowing the appeal awarding the compensation as prayed for.

3) Whereas it is the contention of the learned counsel for insurer that the award of the Tribunal holds good and for this Court while sitting in appeal there is nothing to interfere.

4) Heard and perused the material on record.

5) As per Ex.A2—discharge summary, the injured sustained a single fracture, which is not even a commuted fracture much less compound commuted to believe any shortening much less 1 to ½ inch of the left leg to believe the evidence of PW.2 there is nothing to show but for restricted movements from the stiffness as a partial disability. Thereform there is any permanent disability much less of even 20%disability taken by the Tribunal, even what PW.2 deposed of permanent disability at 50% on its face unsustainable.

6) Coming to the medical expenses, the Tribunal arrived at Rs.78,078-48 ps. However, by showing some other medical bills as proved false there from reduced the amount to Rs.58,559/- by deducting 25% out of the bills claimed, which is after perusal of the bills with reference to given particulars.

7) Having regard to the above, but for to enhance compensation reasonably, there is nothing to consider any permanent disability much less to enhance the medical expenditure of Rs.58,559/- as there is a fracture and the accident is of the year 2001. An amount of Rs.25,000/- awarded including for the restricted movements is sufficient, however, for pain and sufferance even taken there from including from the partial disability enhanced to Rs.40,000/- and there is no further sum awarded for transport and extra nourishment to the sum awarded

by the Tribunal of Rs.8,000/- and the loss of earnings awarded by the Tribunal of Rs.7,500/- requires to be enhanced to Rs.10,000/- from the tribunal believed three months under treatment with no avocation, in all it comes to Rs.1,41,559/- rounded to Rs.1,40,000/-.

8) Having regard to the above, the compensation is enhanced from Rs.1,14,059/- (Rupees one lakh fourteen thousand fifty nine only) to Rs.1,40,000/- (Rupees One lakh forty thousand only) in the peculiar facts so far as interest is concerned, there is nothing to interfere.

9) Accordingly, the appeal is allowed. No order as to costs.

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

Dr. B. SIVA SANKARA RAO, J

Dt.15.07.2016  
knl

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A No.2958 OF 2005



Date:15.07.2016

knl