

HON' BLE Dr. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A. No.9 of 2010

JUDGMENT:

The injured-claimant, who maintained O.P. No.1741 of 2007 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-II Additional Chief Judge, City Civil Courts, Hyderabad (for short, 'the Tribunal'), under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') for a compensation of Rs.6,00,000/- against the owner and insurer of the car bearing registration No.AP 10R 8532 for the injuries sustained in the accident dated 13.05.2007, from what the Tribunal awarded Rs.3,68,200/- with interest at 7.5%per annum by the award dated 12.08.2009 fixing liability on the owner and insurer, maintained the instant appeal impugning the said quantum as utterly low.

2. Heard the learned counsel for the appellant-claimant and though the respondents contested before the Tribunal and served before this Court, failed to attend.

3. The finding of the Tribunal that the accident was occurred on 13.05.2007, when the petitioner-claimant proceeding on his motorcycle and reached near Amangal in Mahaboobnagar District at about 6-30 p.m., the car of respondent No.1 driven by its driver in a rash and negligent manner came on wrong side and dashed the motorcycle, due to

which, the petitioner sustained a crush injury to right leg and other injuries and what is suggested to P.W.1 by the respondents is on noticing one Tata Sumo coming ahead of the car and to avert the accident with Tata Sumo, the petitioner himself dashed the crime vehicle is unbelievable much less of even under intoxication and there is no reason to interfere with the said finding of accident in result of the rash and negligent driving of the driver of the car and the insurance policy covers the risk under Ex.B.1 and thereby, both the respondents are liable to pay compensation to the petitioner.

4. Now coming to the quantum of compensation, even the evidence of P.W.2 with reference to Ex.A.5-disability certificate of 70%disability is exaggerated, from filing of Ex.A.7- photograph of amputation upto the knee is very clear of the right lower limb and as per the Workmen's Compensation Act, 1923, Schedule I, Item Nos.19 and 20, amputation below middle left to below knee and the amputation below the stump exceeding 8.83 cms, but not exceeding 12.70 cms. It is just to consider 50% The accident was dated 13.05.2007. The petitioner claimed earnings of Rs.5,000/- per month as Carpenter, but there is no proof as regards the same. However, the Tribunal taken Rs.2,750/- per month. As per the decision of the Apex Court in Latha Wadhwa v. State of Bihar¹, Rs.3,000/- can be taken into consideration as monthly earnings. From that

¹ AIR 2009 SC 3218

expression, by the date of accident, even it can be taken as Rs.3,600/- even the petitioner could not prove his avocation and earnings and 50% permanent disability for the amputation stated supra comes to Rs.21,600/- (Rs.1,800/- per month x 12 months). For the age of 33 years, multiplier applicable is '16' as per Section 163-A of the Act. Therefore, the compensation towards permanent disability for the amputation comes to Rs.3,45,600/- (Rs.21,600/- x 16) and even transport charges of Rs.3,000/- is no way excessive to consider including from the place of accident to the hospital and at the post-operation treatment after discharge of the inpatient and even for one month period as inpatient, taken the loss of earnings of Rs.4,000/-, attendant charges even considered Rs.3,000/- and what the medical bills filed and considered by the Tribunal comes to Rs.80,800/- rounded off to Rs.81,000/-. Therefore, the injured-claimant is entitled to a total compensation of Rs.4,36,600/-. Even considered Rs.3,400/- towards extra nourishment and rounded off the total compensation to Rs.4,40,000/- by enhancing from Rs.3,68,200/- and by upholding the rate of interest and other terms of the award.

5. Accordingly, the present appeal is allowed in part modifying the award dated 12.08.2009 passed by the Tribunal by enhancing the compensation, as indicated above, by upholding

the award in all other respects. There shall be no order as to costs.

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

Dr. B. SIVA SANKARA RAO, J

18.10.2016
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