

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A No.73 OF 2010

JUDGMENT:

The injured claimant maintained O.P. No.474 of 2007 on the file of Motor Accidents Claims Tribunal—cum—District Judge, Karimnagar, (for short ‘the Tribunal’) against two respondents i.e., owner-cum-driver and insurer of car bearing No.AP 36 N 6789 for a compensation of Rs.25,00,000/- under Section 166 of M.V.Act (for short ‘the Act’) for the injuries sustained by him in the motor accident dated 01.02.2007. From the contest by the 2nd respondent—insurer, the Tribunal on 30.09.2009 awarded compensation of Rs.11,35,657/- with interest at 7.5% per annum. Impugning the said quantum and rate of interest as utterly low, the injured claimant maintained the present appeal.

2) Respondent No.1—owner cum driver of the vehicle even served failed to attend, hence taken as heard. Heard learned counsel for the appellant and learned standing counsel for insurer. Perused the material on record.

3) So far as the finding of the Tribunal that the accident was the result of rash and negligent driving of the driver of the car of the 1st respondent insured with 2nd respondent no way requires interference.

4) Now coming to the quantum of compensation, on 01.02.2007 while the claimant was proceeding on his motor cycle bearing No.AP 9J 9251 at 8 incline turning at Godavarikhani at about 4.20 pm, the opposite coming vehicle driven by its driver—1st respondent dashed the motor cycle of the claimant, as a result, he fell down from the motor cycle and sustained injuries viz., closed fracture—shaft and femur (right) Grade I Compound fracture—shaft of left femur, lateral condyle fracture of left tibia and fracture of inferior pole of left

patella (knee cap), which are grievous injuries. The FIR was registered on the next day of occurrence, from the report of one Akula Shankaraiah, as Crime No.12 of 2007. The evidence of PW.3—Dr.P.Chandrashekar of NIMS hospital is that at the time of the admission the claimant was suffering from breathing problem, for which treatment was given initially and on 24.02.2007 bilateral interlocking nailing done to both femur bones and he was discharged on 06.03.2007. PW.4—Dr.Kurdi Prasanna Simha, Orthopaedic Surgeon and also member of Medical Board of Singareni Collieries, deposed that the injured was suffering with post operative care of fracture shaft femur both patella left and instability left knee 1½ inch shortening right lower limb walking with limp and support and restriction of movements of left knee, therefrom the injured is declared unfit for his job Mazdoor by issuing Ex.A12 certificate. Considering the same, the Tribunal awarded compensation of Rs.11,35,657/- by adopting multiplier '14.81' by taking his age as 35 years disbelieving the mention of the age in Ex.A10—salary and service particulars and also disbelieved the so-called salary certificate when claimant claimed as Mazdoor and on the other hand, considered as a daily earner, thereby for this Court while sitting in appeal there is nothing to enhance.

5) Accordingly and in the result, the appeal is dismissed confirming the award passed by the Tribunal. No order as to costs.

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

Dr. B. SIVA SANKARA RAO, J

Dt.18.10.2016
knl