

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A.No.603 of 2010

JUDGMENT:

The injured claimant, who maintained MVOP No.906 of 2008 under Sections 140 and 163-A of the Motor Vehicles Act (for short 'the Act') for a compensation of Rs.2,00,000/- against the owner and insurer of a car bearing No.AP 16 TV 9819 and from the contest by the insurer for the owner remained ex parte, the tribunal awarded Rs.29,000/- with interest at 7.5% p.a. on 20.07.2009 holding that the accident was the result of rash and negligent driving of the driver of the car dashed the cycle of the petitioner while he was proceeding on it and sustained multiple injuries. So far as 40% disability to the right fore limb from the fixation of screw to the right femur fracture of 1" shortening concerned, what the tribunal observed is there is no proof to the evidence of PW.2 and to believe Ex.A6-Disability certificate issued by him, apart from the Doctor of the Government Hospital, who initially treated the petitioner was not examined. It is impugning the same, present appeal is maintained with the contentions that the tribunal

ought to have awarded compensation as prayed for including permanent disability into consideration.

2. The 2nd respondent-insurer even served failed to attend, initially. However, Sri K.Subba Rao, the learned Standing Counsel for the insurer assisted the Court in representing the matter saying to protect the interest of the insurer.

3. Heard both sides at length and perused the material on record.

4. The manner of accident and finding of the tribunal that the accident was the result of rash and negligent driving of the driver of the car is concerned, there is nothing to interfere.

5. So far as the quantum of compensation awarded by the tribunal of Rs.29,000/- concerned, the evidence on record clearly shows including from that of PW.2, Ex.X1- Case sheet and Ex.A3-certified copy of wound certificate co-relate to each other that the petitioner sustained fracture to the right femur near knee joint, rib fractures and there was operation by screw fixation to the femur fracture and he was treated in the Government Hospital during 09.06.2008 to 27.06.2008. Thus, the Tribunal not

considered the disability from the very fracture and other injuries. Hence, it is just to award Rs.25,000/- to the femur fracture, Rs.20,000/- to the rib fractures, Rs.15,000/- towards loss of earnings, attendant and transport charges and extra nourishment and Rs.5,000/- towards medical expenses even treated in the Government Hospital is free, in total Rs.65,000/-.

6. Accordingly, the appeal is allowed by enhancing compensation from Rs.29,000/- to Rs.65,000/-. Rest of the terms of the award of the Tribunal holds good. There is no order as to costs.

7. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

Date:07.12.2016
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