

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A.No.3509 of 2005

JUDGMENT:

The injured claimant of O.P.No.810 of 2002 maintained the claim under Section 166 of the Motor Vehicles Act, for a compensation of Rs.10,00,000/- for the alleged injuries sustained in a motor accident dated 10.04.2002, while he was traveling in an auto bearing No.AP 25/ T-6821 of the 1st respondent insured with the 2nd respondent while proceeding at Kunepally Village shivar, due to rash and negligent driving of the driver of the said auto, the auto fell into a ditch, as a result of which he sustained amputation of right hand upto shoulder joint and also four fingers of the left hand but for the thumb finger and after contest by the 2nd respondent-insurer, the tribunal having held the injuries were the outcome of rash and negligent driving of the driver of the 1st respondent insured with the 2nd respondent, awarded compensation of Rs.1,87,000/- with interest at 9% p.a. vide award dated 25.08.2005 and impugning the same, the present appeal is filed mainly on the quantum is utterly low.

2. Heard the learned counsel for the appellant-injured, who reiterated the same by drawing attention of this Court to the evidence on record before the lower Court particularly of Ex.A3-wound certificate and Ex.C1-disability certificate and evidence of PW.2. On behalf of respondent, there is no oath against oath and the Ex.B1-policy marked by consent shows covering the risk.

3. Coming to the quantum of compensation whether utterly low or not concerned, the accident was dated 10.04.2002, the injured

claimed earning at Rs.10,000/- p.m. There is no proof and even taken Rs.3,100/-p.m. following the expression of the Apex Court in Lata Wadhwa v. State of Bihar¹, from amputation of the right shoulder as per Schedule I part II item II of the Workmen's Compensation Act, 1923, it is 80% Leave about four fingers of the left hand and even taken there from of the 80%disability from his age about 26 years as on the date of accident, the multiplier application is '17'. If the same is calculated it comes to Rs.5,05,920/- and even Rs.44,080/- is awarded towards medical expenses, extra nourishment, pain and sufferance, attendant charges, transport charges, it comes to Rs.5,50,000/- is the just compensation to enhance from Rs.1,87,000/-, however, by reducing the rate of interest from 9%to 7.5%p.a.

4. Accordingly and in the result, the appeal is partly allowed by enhancing compensation from Rs.1,87,000/- to Rs.5,50,000/- by reducing the rate of interest from 9%to 7.5%p.a. from the date of claim petition till realization. There is no order as to costs.

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

Dr. B.SIVA SANKARA RAO, J

Date:08-09-2016
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¹ AIR 2001 (SC) 3218