HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA No.3138 OF 2005

JUDGMENT:

The injured-claimant in O.P.No.231 of 2000 on the file of the Chairman, Motor Accidents Claims Tribunal–cum- District Judge,(for short, 'the Tribunal'), Srikakulam, maintained under Section 163-A of the Motor Vehicle Act,1988 *(for short, 'the Act')*, against owner and Insurer of the crime vehicle (Tractor and Trailer) bearing Nos.AP 30/T 3329 and 3328 respectively, for the claim of Rs.3,00,000/- for the injuries sustained by him in the accident, dated 11.12.1999, aggrieved by the award dated 05.09.2005 passed by the tribunal granting Rs.2,39,043/- with interest at 7.5% p.a. by fixing joint and several liability against both the respondents, preferred this appeal with the contentions in the grounds of appeal that the tribunal failed to see that the claimant, working as Kalasi, is drawing Rs.3,000/- per month and the same should be taken for computing compensation and the multiplier 19 is also to be taken as per the schedule since the appellant is 25 at the time of accident, that the tribunal ought to have seen that there is 100% disability since the claimant's leg was amputated from below left knee joint and he needs support throughout his life and unable to do labour work. Hence to set aside the award of the tribunal by granting compensation as prayed for.

2. Heard the learned counsel for the appellant/claimant and also learned counsel for the 2nd respondent-Insurer and perused the material on record.

3. The accident was of the year 1999. The injured is claiming as cooli under the 1st respondent-owner and the accident shown occurred while traveling for unloading. There is no proof regarding his earnings. The tribunal taken Rs.1500/- per month from the earnings per day basis though claimed though of Rs.100/- per day with no proof but at best taken Rs.50/- per day. There is nothing even to interfere

with that finding of the tribunal even so also of the disability and amputation supported by the Workmen Compensation Act, in arriving quantum but for to enhance Rs.10,000/- more towards loss of earnings that is not considered by the tribunal.

4. In the result, the appeal is partly allowed by enhancing the compensation from Rs.2,39,043/- to Rs.2,50,000/- with interest at 7.5% p.a. Needless to say Rs.25,000/- under no fault liability already received but for the remaining amount of Rs.2,25,000/- to pay, whatever the Insurer already paid, for the balance within one month from the date of receipt of order. In other respects, the award of the tribunal holds good. Needless to say in the event of income tax deduction, a proof must be given to the claimant to make a claim for refund under form No.16. On deposit by the respondents or execution and recovery from the respondents, the claimant is permitted to withdraw the same. There is no order as to costs in the appeal. Consequently, miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 23.03.2016
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