

THE HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA No.112 OF 2016

JUDGMENT:

The appellant is the claimant in O.P. No.23 of 2008 maintained the claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') for Rs.5,00,000/- for the injuries sustained by him in the motor accident that occurred on 27.07.2007, maintained the claim against respondents 1 and 2, owner and insurer of the Tipper bearing No.AP-16-TW-2047 covered by Ex.B.1 policy, impugning the award of the tribunal granting Rs.2,59,000/- with interest @ 7.5% per annum vide award dated 17.04.2009 as utterly low and to enhance with various grounds of appeal. The main grounds of appeal that the tribunal ought to have apply multiplier by taking in to consideration of the permanent disability deposed by P.W.2 supported by the Disability certificate under Ex.A.5 and P.W.1 evidence also supported the claim besides Ex.A.1 to A.4, leave about Ex.A.7 x-rays and A.6 Medical Bills, there by sought for allowing the appeal as prayed for before the tribunal.

02. In filing the appeal, there is delay of 104 days. He filed application to condone the delay with the explanation in maintaining the appeal in time.

03. It is the contention of the counsel for the respondents 1 and 2, owner and insurer of the vehicle that the award holds good, for this court while sitting in appeal there is nothing to interfere, hence the appeal is to be dismissed.

04. Heard and perused the material available on record. The delay is condoned at request of the counsel for the appellant, subject to not entitled to interest from the date of appeal till date, but from today.

05. The presence of the injured/claimant sought by the court for verification and observation of the disability deposed by P.W.2 of 50%

permanent in nature also supported by the evidence of P.W.3. He is present. He is unable to walk without stick support and as he sustained multiple fractures to both limbs and even both of his legs are uneven and for the walk with stick to the right support as he is limping.

06. Having regard to the above, it is just to consider the permanent functional disability of 50% for life long on the source of earnings and even taken minimum Rs.3,000/- per month as claimed, 50% of the disability therein comes to Rs.1,500/-, the multiplier '15' is to be taken into consideration for the persons aged between 30 and 35 years, as can be seen from the civil supplies ration card 2006 shows the age of the claimant as 34 years and the accident is in July 2007, it comes to Rs.2,70,000/-(1,500 x 12 x 15). The tribunal by considering the medical bills, prescriptions and treatment awarded Rs.50,000/- and even Rs.30,000/- further awarded towards loss of earnings during period of treatment for two months, attendant charges and extra nourishment, in all the claimant is entitled for an amount of Rs.3,50,000/- as just compensation.

07. Accordingly and in the result, the appeal is allowed in part enhancing the compensation from Rs.2,59,000/- to Rs.3,50,000/-, however not entitled to interest on the enhanced amount but from today. In other respects, the award of the tribunal holds good. No costs.

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

Dr.B.SIVA SANKARA RAO, J

Dt.05.01.2016

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