

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A. M.P. No. 5421 OF 2010

IN / AND

M.A.C.M.A. No.697 OF 2016

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JUDGMENT:

Heard.

2) For the reasons stated in the accompanying affidavit, the delay of 313 days in filing the appeal is condoned subject to condition of not entitled to interest but from today.

3) Heard learned counsel for appellant and learned standing counsel for 2nd respondent—insurer. Respondent No.1—owner of the vehicle remained exparte before the Tribunal and even impleaded in the appeal dismissed for default for non payment of process is no way fatal to the maintainability of the appeal vide **Meka Chakra Rao vs Y.Babu Rao**^[1] and the same is recorded. Perused the material on record.

4) No doubt, as can be seen from the award passed on 19.10.2009 in O.P. No.850 of 2007 on the file of Motor Accidents Claims Tribunal-cum-VIII Additional District Judge, Nizamabad, particularly on issue No.2 at para No.12 referring to Ex.A5—charge sheet, the petitioner is shown as one of the injured witness as LW.5. However, so far the evidence of PW.2-Dr.V.Akhilesh would show that PW.1 sustained fracture of both bones of leg and fracture of base of 5th metatarsal of right foot and he cannot say how long he treated the injured as outpatient and this Court many a time observed that one

Dr.Ramulu, who is also in the habit of issuing false certificates as if there is a requisition from police in creating wound certificates and said witness is no way an exception from this Court what noticed in several cases. The Tribunal rightly not believed the sustaining of multiple fractures apart from FIR not even named him as injured but for in the charge sheet. It is at best for one or two simple injuries to award Rs.5,000/-.

5) Accordingly and in the result, the appeal is partly allowed by awarding compensation of Rs.5,000/- (Rupees five thousand only) with interest at 7.5% per annum from the date of petition till the date of realization against respondent Nos.1 and 2. No order as to costs.

6) Miscellaneous petitions, if any pending in this Appeal shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:22.01.2016
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HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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