

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO
MACMA MP No.3697 of 2010 in MACMA No. 131 of
2016 & MACMA No. 131 of 2016

COMMON ORDER :

The injured/claimant in O.P. No.1466 of 2006 the claim maintained for Rs.2,00,000/- under Section 166 of the Motor Vehicles Act for the injuries sustained in the motor accident dated 12.04.2006 saying while he was traveling in the auto near Kishanbagh, the lorry of the 1st respondent insured with the 2nd respondent coming in an opposite direction, dashed the auto and ran over his right thigh from which he sustained fracture of right femur 1/3rd and shifted to Osmania General Hospital and latter treated in Rajyalakshmi Hospital, Vanasthalipuram. On contest by the insurer from the owner remained exparte, the Tribunal by its award dated 02.05.2008 granted compensation of Rs.40,000/- in all with interest at 6% p.a. and impugning the same present appeal is filed with a delay of 676 days. The reason assigned for the delay is poverty and lack of funds to file the appeal in time.

2) Heard the petition to condone the delay and considering the reasons assigned for causing delay in filing the appeal, delay is condoned subject to condition that the claimant is entitled interest on the enhanced amount of compensation only from today. At request of both parties, the appeal is taken up for hearing. The 1st

respondent remained exparte and even impleaded and dismissed for default, no way fatal vide **Meka Chakra Rao v. Yelubandi Baburao**^[1], the 2nd respondent insurer even served, failed to attend and hence taken as heard the 2nd respondent and also heard the counsel for the injured/claimant.

3) The Tribunal rightly not believed the so called Ex.A-7 disability certificate deposed by P.W-2 of 25% functional disability and restricted movements from the fracture of the right femur shaft middle 1/3rd for no basis and P.W-2 is a private doctor and there is no record to show, he treated but the injured was treated and discharged from Osmania General Hospital undisputedly.

4) Having regard to the above, so far as the combined fracture of the right femur shaft concerned, from the accident dated 12.04.2006 an amount of Rs.30,000/- is just compensation including for pain and sufferance, Rs.6,000/- towards loss of earnings, Rs.4,000/- towards attendant charges, Rs.10,000/- towards medical expenses, transport charges and extra nourishment.

5) In the result, the appeal is partly allowed enhancing compensation from 40,000/- to Rs.50,000/- and also increasing the rate of interest from 6% to 7.5% p.a. However, the increased rate of interest on the enhanced compensation shall be calculated from today

only. Rest of the terms of the award shall holds good.
There is no order as to costs.

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

Dr. B. SIVA SANKARA RAO, J

19.01.2016
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