

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA No.136 OF 2016

JUDGMENT:

The injured-claimant aged about 25 years, in O.P.No.199 of 2007 on the file of the Chairman, Motor Accidents Claims Tribunal–cum-XXII Addl.Chief Judge,(for short, ‘the Tribunal’) maintained under Section 166 of the Motor Vehicle Act,1988 (*for short, ‘the Act’*), for the claim of Rs.2,00,000/-(two lakhs rupees only) against owner and Insurer of the crime vehicle (lorry) bearing No.AP 7TT 1395 for the accident caused by rash and negligent driving of the driver of lorry while proceeding on his scooter along with his nephew, resulting fracture of right thigh and other injuries for which taken treatment in Osmania Hospital as in-patient, and the tribunal after contest passed award dated 25.09.2009 granting Rs.72,000/- with interest at 7%p.a. fixing joint liability against both the respondents, impugning the same, filed unnumbered appeal with the contentions in the grounds of appeal that the compensation awarded by the tribunal is utterly low and the same may be granted as prayed for.

2. The claimant filed the appeal along with a petition vide MACMAMP No.886 of 2010 to condone delay of 42 days in preferring the appeal stating that since he was out of city, could not be able to contact his counsel in time. In view of said submission, the petition is allowed by condoning the delay and the registry is directed to number the unnumbered appeal if it is otherwise in order and the appeal is taken up for hearing.

3. Heard the learned counsel for the appellant-claimant. The 1st respondent-owner of the crime vehicle even in the appeal impleaded as 1st respondent, dismissed for default vide Court order dated 19.02.2005 no way fatal to the maintainability of appeal as per the expression in **M.Chakra Rao v. Y.Baburao**^[1] and also heard the learned counsel for 2nd respondent-Insurance company and perused

the material on record.

4. On perusal of record, from the evidence of P.W.2 doctor (Omkarnath), the petitioner is suffering from 25% disability from limping due to the fracture of right leg(thigh region). The claimant aged shown as 25 years claimed earnings from sale of kitchen-ware of Rs.4,000/- p.m. with no proof. The tribunal found the accident was due to rash and negligent driving of the lorry driver.

5. So far as the permanent disability, the petitioner present before the Court even today and observation shows there is some limping thereby it is just to take 20% permanent disability. His earnings as on the date of accident dt. 31.10.2006 even taken of Rs.3,500/- p.m., 20% therein comes to Rs.700/- x 12 x 17(multiplier) from the age of the claimant at the time of the accident shown as 25, it comes to Rs.1,42,800/- besides loss of earnings even awarded Rs.10,000/- for about three months, medical expenses and treatment of Rs.10,000/-, for transport, attendant and extra nourishment charges of Rs.7,200/- and for pain and sufferance for the injuries of Rs.20,000/- totaling to Rs.1,90,000/- is the just compensation the claimant is entitled however with interest at 7.5% p.a. on the enhanced compensation only from today till realization.

6. In the result, the appeal is partly allowed by enhancing the compensation from Rs.72,500/- to Rs.1,90,000/- by enhancing the interest from 7% p.a. to 7.5% p.a. only from today till realization on the enhanced amount only. The respondents are directed to deposit the enhanced amount within one month from today. On deposit or execution and recovery by 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: 18.01.2016
Vvr

[\[1\]](#) 2001 (1) ALT 495 DB