

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA MP No.5188 of 2011

IN/AND

M.A.C.M.A.No.693 of 2016

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ORDER :

Heard the learned counsel for the claimant/appellant vis-à-vis the 2nd respondent insurer in the un-numbered appeal and the delay condonation application of 174 days in filing the appeal. Perused the material on record

2. For the reasons stated in the affidavit filed in support of the petition, the delay of 174 days in filing the appeal is condoned, subject to the claimant is not entitled to claim interest on any enhanced amount but from today.

3. At request, the appeal is taken up for hearing. The 1st respondent, who is owner of car remained exparte before the tribunal and even impleaded in the appeal and dismissed for default, no way fatal to the maintainability of the appeal vide **M.Chakra Rao v. Y.Babu Rao @Reddemma**^[1] and the same is recorded.

4. The tribunal awarded compensation by taking into consideration the disability certificate-Ex.A2 said to have been issued by the District Medical Board as 10% and adopted multiplier '17' (from the claimant age) as per **Sarla Verma v. Delhi Transport Corporation**^[2] and taken the earnings at Rs.3,000/-p.m. As per **Lata Wadhwa V State of Bihar**^[3], in the absence of proof of earnings, minimum Rs.3,000/- p.m. to be

taken and accident was three years after the expression. Hence, the earnings of the injured can be considered as Rs.3,300/- p.m. Accordingly, the same is calculated it comes to Rs.3300/- p.m. x 12 x 17 multiplier =Rs.6,73,200/-. Out of the same, 10% disability comes to Rs.67,320/-. No amount is awarded for removal of implants as there is no evidence on record. In all other respects, the amount awarded by the tribunal holds good. Thus, in total, the compensation comes to Rs.1,12,120/-, which is rounded to Rs.1,12,000/-.

5. Accordingly and in the result, the appeal is partly allowed by enhancing compensation from Rs.1,06,000/- to Rs.1,12,000/-but however the interest at 7.5% p.a. is awarded on the enhanced amount from today i.e., 12.02.2016 only. There is no order as to costs.

6. Miscellaneous petitions, if any pending, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:12-02-2016

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

[\[2\]](#) 2009 ACJ 1298

[\[3\]](#) AIR 2001 (SC) 3218