

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

MACMA.273 OF 2006

ORDER:

Claimant in OP.No.500 of 2001, on the file of the Court of the Chairman, Motor Vehicles Accidents Claims Tribunal-cum- Principal District Judge, Medak at Sanga Reddy, is the appellant in the present appeal filed under Section 173 of the Motor Vehicles Act, 1988.

2. Heard the learned counsel for the petitioner and Sri V.Srimannarayana, advocate representing the counsel on record for the respondents apart from perusing the material available before the Court.

3. In the accident that occurred on 13.05.2000 at about 4-00 pm near Ganesh Rudram Village, National High Way No.9, claimant/appellant herein sustained injuries. Claiming compensation of Rs.1,00,000/- towards the said injuries, appellant herein approached the Motor Accidents Claims Tribunal, Medak, by way of filing OP.No.500/2001. The first respondent/owner of the vehicle remained ex-parte. Second respondent/Insurance Company contested the matter by way of filing a counter. In order to substantiate his case, claimant, apart from examining himself as PW.1 also examined one Sri Dr.Y.Surender Rao, a Doctor who treated him. The Tribunal partly allowed the said O.P.No.500/2000, awarding compensation of Rs.40,000/- with interest @ 9% per annum from the date of petition till realisation and directed the respondents 1 and 2 to pay the awarded compensation. Seeking enhancement of the compensation awarded by the Tribunal, the present appeal came to be filed.

4. According to the learned counsel for the appellant, the Tribunal ought to have granted the compensation as sought by the claimants and erred in

restricting the same to a sum of Rs.40,000/-. It is the further submission of the learned counsel for the appellant that the evidence on record including the evidence of PW.2 Doctor clearly discloses that the appellant herein sustained grievous injuries and as such the amount granted by the Tribunal is paltry.

5. On the other hand, it is submitted by the learned Standing Counsel for the second respondent/Insurance Company that having regard to the facts and circumstances of the case and the material available on record, the Tribunal is perfectly justified in granting compensation of Rs.40,000/- only, as such, the order passed by the Tribunal does not warrant any interference of this Court under Section 173 of the Motor Vehicles Act, 1988.

6. A perusal of the material available before this Court manifestly discloses that the claimant apart from examining himself as PW.1 also examined PW.2 and Exs.A.1 to A.8 documents were marked. In order to substantiate their case, nobody was examined on behalf of the respondent/insurance company.

7. While answering Issue No.1, the Tribunal categorically held that the accident occurred due to the rash and negligent driving of the Driver of the offending vehicle. According to the appellant he took treatment as inpatient in Gandhi Hospital for 15 Days and was bed ridden for 8 months and incurred Rs.30,000/- for medical treatment. The evidence of PW.2 clearly discloses that the petitioner sustained grievous injuries including a fracture to the right leg and the claimant also underwent plastic surgery. It is further clear that due to the accident the appellant claimant also sustained shortening of right leg about one inch. It is significant to note that nobody was examined on behalf of the Insurance Company to rebut the same.

8. It is also the submission of the learned counsel for the appellant that the Tribunal did not grant anything under the heads pain and suffering and towards the loss of marriage prospects of the claimant in view of the accident.

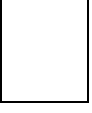
9. Having regard to the above reasons and the facts and circumstances of the case, this Court is of the considered opinion that the amount awarded by the Tribunal is not in proportionate to the injuries/loss sustained by the claimant.

10. Accordingly, appeal is allowed in part, enhancing the compensation from Rs.40,000/- awarded by the Tribunal to Rs.80,000/-. All other conditions in the impugned award shall remain intact. As a sequel, the miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.

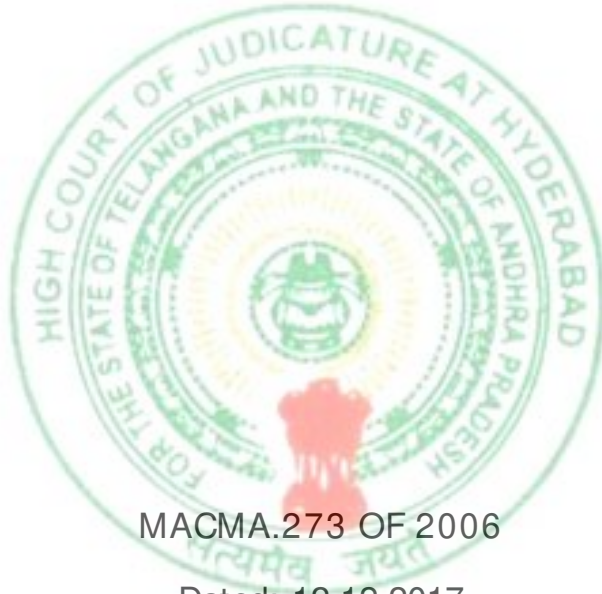
Date: 12.12.2017
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A.V.SESHA SAI, J



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Dated: 12.12.2017

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