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APHC010627682013



**IN THE HIGH COURT OF ANDHRA PRADESH [3520]  
 AT AMARAVATI  
 (Special Original Jurisdiction)**

TUESDAY, THE TWENTY FOURTH DAY OF MARCH  
 TWO THOUSAND AND TWENTY SIX

**PRESENT**

**THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA**

**MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 814/2013**

**Between:**

1. BACHU SREEKANTH, S/O. THIRUPALAI AH SETTY, BUSINESS,  
 R/O. H.NO. 25-670, SREENIVASANAGAR, NANDYAL TOWN &  
 MANDAL, KUNROOL DISTRICT.

**...APPELLANT**

**AND**

1. G GIRIDHAR. S/O. GOPALA KRISHNA, OWNER OF SCORPIO  
 BEARING NO. AP-09-AR-6145 R/O. B-1, HARI RESIDENCY, H.NO.  
 1-2-217/3A, GAGAN MAHAL ROAD, DOMALGUDA, HYDERABAD.

2. THE MANAGER NEW INDIA ASSURANCE COMPANY LTD,  
 KURNOOL.

**...RESPONDENT(S):**

Appeal filed under Order 41 of CPC praying that the Highcourt may be pleased to allow the instant MACMA by awarding an amount of Rs. 18,00,000/- as compensation to the Appellant by setting aside the order dated 7-1-2013 in so far as it is against to the appellant.

**Counsel for the Appellant:**

1.V VINOD K REDDY

**Counsel for the Respondent(S):**

1..

2.C PRAKASH REDDY

**The Court made the following:**

**THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA****M.A.C.M.A.No.814 of 2013****JUDGMENT:****Introductory:**

The claimants before the III Additional District Court-cum-Motor Accidents Claims Tribunal, Kurnool at Nandyal (for short “the learned MACT”), in M.V.O.P.No.246 of 2011 filed the present appeal, disputing the order and decree dated 07.01.2013 on the ground that the compensation of Rs.5,16,511/- awarded as against a claim made for Rs.18,00,000/- is grossly inadequate.

2. The 1<sup>st</sup> respondent herein is the owner of the Scorpio vehicle bearing No.AP 09 AR 6145 [*hereinafter referred as ‘the offending vehicle’*], remained ex parte before the learned MACT and the 2<sup>nd</sup> respondent herein is the Insurance Company with which the offending vehicle was insured.

3. For the sake of convenience, parties will be herein after referred as the claimant/petitioner and the respondents as and how they are arrayed before the learned MACT.

**Case of the Claimant:-**

4. [i] On the fateful day i.e., on 17.12.2010 at about 9.45 hours, while the petitioner was proceeding to Kurnool from Nandyal in a Tata Indica Car bearing registration No.AP 21 AD -0279, one Scorpio vehicle bearing No.AP 09 AR 6145 [offending vehicle] came in an opposite direction and dashed the

Car in which the petitioner was travelling and caused the accident. With the result, the petitioner suffered grievous injuries. He was shifted to “Siri Noble Hospital, Kurnool wherein operation was conducted to his right thigh, steel rods were implanted to his right thigh, he has spent Rs.1,00,000/- for the operation. He was shifted to Apollo Hospital, Hyderabad, due to infection to his right thigh, where he was treated as inpatient for (10) days, incurred an expenditure of Rs.1,50,000/-. From there he was shifted to Ganga Medical Centre and Hospital, Coimbatore and undergone operation and incurred medical expenditure of Rs.1,80,000/-. Thereafter, the petitioner has taken physiotherapy treatment in Dr. Ganesh’s Physiotherapy Center, Nadnyal and spent Rs.25,000/- and also incurred Rs.40,000/- medical expenditure for his regular treatment.

[ii] Prior to the accident, the petitioner was hale and healthy, earning Rs.6,00,000/- p.a.; due to the accident became disabled. Hence, entitled for just and reasonable compensation.

**Case of the 2<sup>nd</sup> respondent/Insurance Company:-**

5. [i] Petitioner shall prove the age, occupation, income, accident and negligence of the driver of the offending vehicle, absence of negligence on the part of the driver of the Car.

[ii] The petition is bad for non-joinder of the Insurance Company of the Car, in which the petitioner was travelling.

[iii] The claimant shall also prove the nature and effect of the injuries, including the medical expenditure incurred and the disability suffered by the petitioner due to the accident.

[iv] Compensation claimed is excessive.

**Evidence:-**

**Oral:-**

6. [i] The claimant as PW.1 deposed about the accident, negligence of the driver of the offending vehicle, hospitalization, taking treatment and incurring expenditure etc.; Dr.J.Deenadhayalan was examined as PW.2, who treated the petitioner at Coimbatore; Dr.M.Hari Sharma at Ganga Hospital, Consultant Orthopaedic Surgeon at Apollo Hospital was examined as PW.3 and D.V. Ramana- Consultant Orthopaedic surgeon at Siri Nobel Hospital, Kurnool was examined as PW.4; Dr.K.David Raju, Civil Surgeon Specialist in District Hospital, Nandyal was examined as PW.5, who deposed about the Disability Certificate.

**Documentary:-**

[ii] The petitioner further relied on Ex.A1-F.I.R., A2-Wound Certificate and A3-Charge Sheet, A4- Calendar and Judgment in C.C.No.25 of 2011, wherein the driver of the offending vehicle was convicted on admission for the offences under Sections 338, 337; Ex.A5-From No.54, Ex.A6-M.V.I. Report and Ex.A6-Discharge Summary of Noble Hospital, Kurnool, A7 and A8 are the Discharge Summaries issued by Apollo Hospital, Hyderabad, Ex.A9-Discharge Summary issued by Ganga Medical Center,

Coimbatore, Ex.A10-Bunch of Medical Bills and Ex.A11-Disability Certificate and Ex.A12-Income Tax return Ex.A13- bunch of X-rays (25 in No.) and Ex.A14- Photo copies of the Insurance Policy.

7. On behalf of the 2<sup>nd</sup> respondent- one S.B.G. Siva, Administrative Officer of the Insurance Company was examined as RW.1 and relied on Ex.B1-Insurance Policy.

**Findings of the learned MACT:-**

8. [i] Accepting the evidence of claimant/PW.1, as an eye witness to the accident and relying on Ex.A4, conviction judgment of driver of the offending vehicle, observing that there is no necessity of proof of negligence as has been held by this Court ***Smt.Sukhinder Anand Vs. Khaza Vazir Ali (Minor) and Others***<sup>1</sup> learned MACT found that negligence of the driver of the offending vehicle as the cause for the accident.

[ii] Further observing that absence of driving licence is not proved by the 2<sup>nd</sup> respondent-Insurance Company and the evidence of RW.1 is not sufficient for believing that the plea that the driver of the offending vehicle is not having valid and effective licence, learned MACT found that the respondents 1 and 2 are liable to pay the compensation.

[iii] Further the entitlement of the petitioner/claimant for compensation found as follows:

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<sup>1</sup> 1994 SCC Online AP 20 : AIR 1994 AP 343

| Sl.No. | Description of head                                                                                                                                      | Awarded Amount<br>(Rs.) |
|--------|----------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| 1.     | 2 grievous injuries (Rs.25,000/- x 2)                                                                                                                    | 50,000-00               |
| 2.     | 2 simple injuries (Rs.3,000/- x 2)                                                                                                                       | 6000-00                 |
| 3.     | Pain and suffering                                                                                                                                       | 15,000-00               |
| 4.     | Medical Bills (as per Ex.A10)                                                                                                                            | 2,65,511-00             |
| 5.     | <u>Compensation for disability for 25%</u><br>Rs.4,000 x 12 = Rs.48,000/-<br>Rs.48,000 x 15 = Rs.7,20,000/-<br>Rs.7,20,000/-x25%disability= Rs1,80,000/- | Rs.1,80,000-00          |
|        | TOTAL                                                                                                                                                    | Rs.5,16,511/-           |

**Arguments in the appeal:**

**For the appellant/petitioner/claimant :-**

9. [i] Compensation awarded is inadequate. Medical Bills are not properly considered.

[ii] Disability assessed and accepted are not proper.

[iii] Taking of income of the petitioner notionally at Rs.4000/- is not correct, particularly when Income Tax returns are filed.

**For the Insurance Company:-**

10. [i] Compensation awarded by the learned MACT is excessive.

[ii] There are no grounds to interfere.

**Scope of the Appeal:-**

11. [i] This is a claimant's appeal and there is no appeal filed by the Insurance Company. Therefore, the negligence, violation of conditions of the Insurance Policy, liability of the Insurance Company are all out of dispute.

[ii] The only point that remains for determination, is just and adequate nature of compensation that can be awarded to the claimant?

12. Heard both sides extensively. Perused the record. Thoughtful consideration is given to the arguments advanced by both sides.

13. The points that arose for determination in this appeal are –

1) Whether the compensation of Rs.5,16,511/- awarded by the learned MACT under the impugned order and Decree dated 07.01.2013 is just and reasonable ? Or require any interference? If so, on what grounds and to which extent?

2) What is the result of the appeal?

**Point No.1:-**

**Precedential Guidance:**

14. A reference to parameters, for quantifying the compensation under various heads, addressed by the Hon'ble Apex Court is found necessary, to have standard base in the process of quantifying the compensation, to which the claimant is entitled.

(i) With regard to awarding just and reasonable quantum of compensation, the Hon'ble Supreme Court in ***Baby Sakshi Greola vs. Manzoor Ahmad Simon and Anr.***<sup>2</sup>, arising out of SLP(c).No.10996 of 2018 on 11.12.2024, considered the scope and powers of the Tribunal in awarding just and compensation within the meaning of Act, after marshaling entire case law, more particularly with reference to the earlier observations of the Hon'ble Supreme Court made in ***Kajal V. Jagadish Chand and Ors.***<sup>3</sup>, referred to various heads under which, compensation can be awarded, in injuries cases vide paragraph No.52, the heads are as follows:-

| S. No. | Head                                       | Amount (In ₹)  |
|--------|--------------------------------------------|----------------|
| 1.     | Medicines and Medical Treatment            | xxxxx          |
| 2.     | Loss of Earning Capacity due to Disability | xxxxx          |
| 3.     | Pain and Suffering                         | xxxxx          |
| 4.     | Future Treatment                           | xxxxx          |
| 5.     | Attendant Charges                          | xxxxx          |
| 6.     | Loss of Amenities of Life                  | xxxxx          |
| 7.     | Loss of Future Prospect                    | xxxxx          |
| 8.     | Special Education Expenditure              | xxxxx          |
| 9.     | Conveyance and Special Diet                | xxxxx          |
| 10.    | Loss of Marriage Prospects                 | xxxxx          |
| Total  |                                            | Rs. ... xxxxxx |

(ii). Hon'ble Apex Court in ***Yadava Kumar Vs. Divisional Manager, National Insurance Company Limited and Anr.***<sup>4</sup> vide para No.10, by referring to ***Sunil Kumar Vs. Ram Singh Gaud***<sup>5</sup>, as to application of multiplier method in case of injuries while calculating loss of future earnings, in para 16 referring to ***Hardeo Kaur Vs. Rajasthan State Transport***

<sup>2</sup>2025 AIAR (Civil) 1

<sup>3</sup>2020 (04) SCC 413

<sup>4</sup>2010(10)SCC 341

<sup>5</sup> 2007 (14) SCC 61

**Corporation**<sup>6</sup>, as to fixing of quantum of compensation with liberal approach, valuing the life and limb of individual in generous scale, in para 17 observed that :-

*“The High Court and the Tribunal must realize that there is a distinction between compensation and damage. The expression compensation may include a claim for damage but compensation is more comprehensive. Normally damages are given for an injury which is suffered, whereas compensation stands on a slightly higher footing. It is given for the atonement of injury caused and the intention behind grant of compensation is to put back the injured party as far as possible in the same position, as if the injury has not taken place, by way of grant of pecuniary relief. Thus, in the matter of computation of compensation, the approach will be slightly more broad based than what is done in the matter of assessment of damages. At the same time it is true that there cannot be any rigid or mathematical precision in the matter of determination of compensation.”*

(iii). In **Rajkumar Vs. Ajay Kumar and Another**<sup>7</sup>, the Hon'ble Apex Court summarized principles to be followed in the process of quantifying the compensation after referring to socio economic and practical aspects from which, the claimants come and the practical difficulties, the parties may face in the process of getting disability assessed and getting all certificates from either the Doctors, who treated, or from the medical boards etc. principles summarized *vide* para No.19 are as follows:

**“19.** *We may now summarise the principles discussed above:*

- (i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.*
- (ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the*

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<sup>6</sup> 1992(2) SCC 567

<sup>7</sup> 2011 (1) SCC 343

*percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that the percentage of loss of earning capacity is the same as the percentage of permanent disability).*

*(iii) The doctor who treated an injured claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard to the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.*

*(iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors.”*

(iv) In **Sidram vs. United India Insurance Company Ltd. and Anr.**<sup>8</sup> vide para No.40, the Hon'ble Apex Court referred to the general principles relating to compensation in injury cases and assessment of future loss of earning due to permanent disability by referring to **Rajkumar's** case, and also various heads under which compensation can be awarded to a victim of a motor vehicle accident.

(v) In **Sidram's** case, reference is made to a case in **R.D. Hattangadi V. Pest Control (India) (P) Ltd.**<sup>9</sup>. From the observations made therein, it can be understood that while fixing amount of compensation in cases of accident, it involves some guess work, some hypothetical consideration, some amount of sympathy linked with the nature of the

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<sup>8</sup> 2023 (3) SCC 439

<sup>9</sup> 1995 (1) SCC 551

disability caused. But, all these elements have to be viewed with objective standards. In assessing damages, the Court must exclude all considerations of matter which rest in awarding speculation or fancy, though conjecture to some extent is inevitable.

### **Analysis and Findings:-**

15. The petitioner sustaining grievous injuries and his hospitalization are very clearly established by the discharge summaries and the evidence of PW.1 to PW.5. The treatment was taken at different places, namely Nandyal, Kurnool, Hyderabad and Coimbatore. The petitioner is a native of Nandyal, shifting him to various places for better medical treatment is a matter for acceptance. Travelling expenditure, attendant expenditure during all shifting and treatments at various hospitals is also a matter for acceptance on ordinary prudence. Certain guess work is permissible in social welfare legislations and the procedure to be followed is summary as per Section 169 of Motor Vehicles Act. Even the precedential guidance mentioned above suggests and appreciates some guess work. Pain and suffering during treatment, operation etc., at various intervals is also a matter of cognizance, at least in the light of the evidence of the Doctors.

16. The evidence of Dr.J.Dheen Dhayalan- PW.2 would show that the petitioner was admitted on 15.07.2011 with the complaint of pain, inability to weight bear and stand and bones were not united, the fracture was not healed, surgery was done on 18.07.2011 and frames are put, thereafter

second surgery was done for removal on 24.12.2011. Thereafter, POP plaster was put, readmission was done and he has confirmed about the discharge summary- Ex.A9, Ex.A10-bills given at Ganga Hospital as per his advice. Nothing important could be elicited during the cross-examination. However, it was added that fracture of shaft of femur at M/3 and L/3 was there and it was infected.

17. PW.3, Dr. M.Hari Sharma has also stated about the treatment of the petitioner at Apollo Hospital, Hyderabad and treatment during 20.05.2011 for non-union of shaft of right femur at middle and lower 3<sup>rd</sup> junction, operation done on 25.03.2011, advice of bed rest. He has also stated about Ex.A7 and Ex.A8-discharge summaries issued at his hospital.

18. PW.4-Dr. D.V. Ramana stated about the injuries suffered and examining the petitioner on 17.12.2010 and operation done on 20.11.2010 etc.

19. PW.5-Dr.K.David Raju deposed that he is a Civil Surgeon specialist, member of the Medical Board and stated that the petitioner appeared for assessing permanent disability; on examination of fracture of femur re-united well mal-union present shortening by two inches stiffness of right hip and knee at terminal degrees and the disability was assessed at 25%.

20. With the oral evidence of the Doctors, who treated the petitioner, the operations conducted on the petitioner and the disability suffered by him is evident. Ex.A10 bunch of medical bills stands for Rs.2,65,511/-, which the

learned MACT has awarded. However, missing of certain bills and certain other expenditure beyond medical bills, spoken and claimed by the claimant need not be brushed aside.

21. The petitioner claimed that he was earning Rs.6,00,000/- per annum, which comes to Rs.50,000/- per month. However, in proof of his occupation and income except his oral evidence and Income Tax returns, there is no other material. The Income Tax returns are pertaining to the year 2010 and 2011, none are examined to prove the same. It is shown that the petitioner is earning Rs.3,00,000/- and Tax payable is @Rs.14,950/- including interest, Ex.A12 document, without there being any further corroboration, found not sufficient to believe the income of the petitioner at what he has claimed and it can be found that the claimant has put the Court to opt guess work as to his income. Further in view of the business in which he is engaged and upon considering the facts and circumstances, socio economic circumstances as well as the cost of living of the year 2010, when the accident occurred, this Court finds that the income of the deceased can be accepted at Rs.7000/- per month notionally and by taking note of his age '36' and as his employment appears to be permanent one, hence, 40% addition to his income is permissible, whereby the income of the deceased can be accepted around at Rs.10,000/- per month, which comes to Rs.1,20,000/- p.a., disability being '25%', Rs.30,000/- can be considered as loss of income per annum. For the age group of '36', multiplier applicable is '15'. Upon

application of the same, the entitlement of the claimant for compensation under the head of permanent disability comes to Rs.4,50,000/-.

22. In the light of the precedential guidance and in view of the reasons and evidence referred to above, the entitlement of the claimant for reasonable compensation, in comparison to the compensation awarded by the learned MACT, is found as follows:

| <b>Sl. No.</b> | <b>Head</b>                      | <b>Granted by the learned MACT</b> | <b>Fixed by this Appellate Court</b> |
|----------------|----------------------------------|------------------------------------|--------------------------------------|
| 1.             | Pain and suffering               | Rs.15,000/-                        | <b>Rs.15,000/-</b>                   |
|                | 2 grievous injuries              | Rs.50,000/-                        | <b>Rs.60,000/-</b>                   |
|                | 2 simple injuries                | Rs.6,000/-                         | <b>Rs.10,000/-</b>                   |
| 2.             | Loss of income due to disability | Rs.1,80,000/-                      | <b>Rs.4,50,000/-</b>                 |
| 3.             | Transportation                   | -Nil-                              | <b>Rs.50,000/-</b>                   |
| 4.             | Medical expenditure/treatment    | Rs.2,65,511/-                      | <b>Rs.4,00,000/-</b>                 |
| 5.             | Attendant charges (at 4 places)  | -Nil-                              | <b>Rs.50,000/-</b>                   |
| 6.             | Loss of amenities                | -Nil-                              | <b>Rs.50,000/-</b>                   |
| 7.             | Future medical treatment         | -Nil-                              | <b>Rs.50,000/-</b>                   |
|                | <b>Total:</b>                    | <b>Rs.5,16,511/-</b>               | <b>Rs.11,35,000/-</b>                |
|                | <b>Interest (per annum)</b>      | 6%                                 | 6%                                   |

23. For the reasons aforesaid and in view of the discussion made above, the point framed is answered in favour of the claimant, concluding that the claimant is entitled for compensation of Rs.**11,35,000/-** with interest @6%p.a.

and the judgment and decree dated 07.01.2013 passed by the learned MACT in M.V.O.P.No.246 of 2011 require modification accordingly.

**Point No.2:**

24. In the result, **the appeal is allowed in part**, as follows:

- (i) Compensation awarded by the learned MACT in M.V.O.P.No.246 of 2011 at Rs.5,16,511/- with interest at the rate of 6% per annum is modified and enhanced to Rs.**11,35,000/-** with interest at the rate of 6% per annum from the date of petition till the date of realization.
- (ii) Respondent Nos.1 and 2 are jointly and severally liable. However, Respondent No.2 / Insurance Company is liable in view of the Insurance Policy.
- (iii) Time for payment/deposit of the balance amount is two months.
  - (a) If the petitioner/claimant furnish the bank account number within 15 days from today, Respondents No.2 / Insurance Company shall deposit the amount directly into the bank account of the petitioner/ claimant and file the necessary proof before the learned MACT.
  - (b) If the petitioner/claimant fails to comply with (iii)(a) above, Respondent No.2/Insurance Company shall deposit the amount before the learned MACT and the petitioner/claimant is entitled to withdraw the amount at once on deposit.

(iv) There shall be no order as to costs in the appeal.

25. As a sequel, miscellaneous petitions, if any, pending in the appeal shall stand closed.

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**A. HARI HARANADHA SARMA, J**

Date: 10.04.2026

Pnr

**THE HON'BLE SRI JUSTICE A. HARI HARANADHA SARMA**

**M.A.C.M.A.No.814 of 2013**

**10.04.2026**

Pnr