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APHC010146632012



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

[3520]

FRIDAY, THE NINETEENTH DAY OF JUNE
 TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 3202/2012

Between:

1.DAKE SURYACHANDRA RAO R/O VELPUR, W.G.DIST, S/O SUBBA RAO
 BEING MINOR REP. BY HER MOTHER HOUSEWIFE R/O VELPUR,
 W.G.DISTRICT

...APPELLANT

AND

1.NEELAPU VENKATA RAO 2 OTHERS, S/O APPA RAO DRIVER OF AP37
 6481 R/O PYDIPARRI, TANUKU MANDAL, W.G.DISTRICT
 2.NEELAPU SRINIVASA RAO, S/O KRISHNA OWNER OF DRIVER OF AP37
 6481 R/O RELANGI, W.G.DISTRICT
 3.THE NEW INDIA ASSURANCE CO LTD, REP. BY ITS DIVISIONAL MANGER
 R/O TADEPALLIGUDEM, W.G.DISTRICT

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Court

IA NO: 1 OF 2006(MACMAMP 4383 OF 2006

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased To condone the delay of 440 days in presenting this Appeal.

Counsel for the Appellant:

1.A K KISHORE REDDY

Counsel for the Respondent(S):

1..

2.A JAYANTHI

The Court made the following:

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA**M.A.C.M.A.No.3202 of 2012****JUDGMENT:****Introductory:**

1. Claimant in the M.V.O.P.No.204 of 2004 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-IV Additional District Judge (Fast Track Court) Tanuku, West Godavari District (for short “the learned MACT”), dissatisfied with the quantum of compensation of Rs.26,500/- awarded as against the claim made for Rs.1,50,000/-, filed the present appeal seeking enhancement of compensation disputing the quantification.

2. Respondent Nos.1 and 2 are the driver and owner of the offending vehicle remained *ex parte* before the learned MACT. Respondent No.3 is the Insurance Company contested the matter.

3. For the sake of convenience, parties will be hereinafter referred to as the claimant/petitioner and the respondents with reference to their status before the learned MACT.

Case of the petitioner:

4(i). On 31.12.2003, while the petitioner was proceeding on his bicycle, an Auto bearing No.AP 37 U 6481 (hereinafter referred to as “the offending vehicle”), driven by respondent No.1 owned by respondent No.2 and insured with respondent No.3, without following traffic rules etc., came in a negligent manner and dashed against the

petitioner, causing the accident and resulting in injuries all over the body of the petitioner. Matter was reported to the Police. A case in Crime No.160 of 2003 was registered on the file of Tanuku Police Station for the offences under Section 338 IPC and the petitioner was taken to Vamsi Hi-Tech Super Specialty Hospital, Tanuku, where he has incurred expenditure of Rs.60,000/- towards treatment, medicines etc.

(ii). Petitioner was hale and healthy and aged about '16' years by the date of accident and he was a student. He suffered grievous injuries on the head and fore arm. The driver of the offending vehicle / auto is responsible for the accident. Hence, Respondent No.2 being the owner and respondent No.3 being the insurer are liable to pay compensation.

Case of respondent No.3 / Insurance Company:

5. The petitioner shall prove the pleaded accident, negligence of the driver of the auto/ the offending vehicle, injuries sustained by the petitioner, treatment undergone, expenditure incurred, nature and effect of injuries, entitlement for the compensation claimed including compliance with the conditions of the policy etc.

Evidence:

6(i). During enquiry / trial, for answering the issues touching accident, negligence, entitlement of the claimant for compensation and its quantification, the claimant relied on evidence of P.W.1 and P.W.2. P.W.1, the mother of the claimant, stated about the accident, admission of the petitioner in the hospital, expenditure incurred for treatment etc. and examined P.W.2 the doctor who treated the claimant.

(ii). In addition to the oral evidence, the claimant relied on documentary evidence. Ex.A1-attested copy of FIR, Ex.A2-Accident register copy, Ex.A3-attested copy of MVI report and Ex.A8-attested copy of C.T. Scan report are the crime records relating to the accident. Ex.A4 is the attested copy of the policy Ex.A5 is the C.T. Scan report, Ex.A6 is the discharge summary, Ex.A7 is the bunch of medical bills, Ex.A8 is the attested copy of C.T. Scan report, Ex.A9 is the discharge bill and Ex.A10 is the C.T. Scan report.

Findings of the learned MACT:

7. The learned MACT, by referring to the evidence, held that the negligence of the driver of the auto/offending vehicle is the cause for accident and that the claimant is entitled for compensation and the respondents are liable to pay the same. While quantifying the compensation, relying on the evidence of P.W.2, the medical officer, wound certificate, bills etc. the learned MACT awarded compensation of Rs.26,500/- observing the same as just and reasonable compensation. The heads under which the compensation was awarded by the learned MACT are: Rs.10,000/- for injury No.1, Rs.1,500/- for the injury No.2, Rs.10,000/- towards medicines and treatment and Rs.5,000/- towards pain and suffering.

Arguments in the appeal and hearing:

8. Learned counsel for the appellant would submit that the compensation awarded is nominal and the claimant is entitled for more compensation in view of the gravity of

the injuries as well as the medical bills being standing Ex.A9 itself is for Rs.29,600/-. The learned MACT failed to consider the entitlement under various heads.

9. Per contra, learned counsel for the respondent-Insurance Company would submit that the injuries are simple in nature and the medical expenditure etc. are not properly shown. Therefore, the compensation awarded is justified.

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

Scope of Appeal:

11. Since the claimant is in appeal, the respondents did not choose to file any appeal. Accident, negligence, liability of the respondents to pay compensation and the entitlement of the claimants for compensation are all out of dispute. Only the just and adequate nature of the compensation alone is the subject matter of this appeal.

Points:

12. The points that arise for determination in this appeal are:

1) Whether the compensation of Rs.26,500/- awarded by the learned MACT under judgment dated 14.03.2005 in M.V.O.P.No.204 of 2004 is just and adequate or requires any interference and if so, on what grounds and to what extent ?

2) What is the result of the appeal?

Point No.1:

Analysis, Reasoning and Findings:

13(i). The mother of the petitioner, being the next friend and guardian, deposed as P.W.1 and reiterated the contents in the petition with regard to the petitioner sustaining multiple injuries, including head injury and his admission in Vamsi Hi-Tech Hospital, Tanuku, incurring expenditure of Rs.50,000/- towards treatment and medicines and continuation of treatment thereafter.

(ii). During cross examination of P.W.1, she has denied the suggestion that the bills are fabricated and admitted that the latest CT scan report is not filed. She has denied the suggestion that there is no disability to the petitioner. She has denied the suggestion that she has suppressed the Wound Certificate issued by the Government Hospital and that the injuries as per Ex.A2 are simple in nature.

14(i). P.W.2 is the doctor who treated the petitioner. His evidence is that the petitioner was admitted with complaints of painful palaver on cervical region and head injury. CT scan of the cervical and brain was taken. X-ray, cervical limbo scral pain was noticed. He has issued the wound certificate. The injuries are grievous in nature. As per the CT scan, fractures of occipital bone, cerebral edema and related changes were noticed. Receipts and bills covered under Ex.A7 are issued from his Hospital.

(ii). During the cross examination of P.W.2, it is elicited that he is not a neurologist. The suggestion as to his competency to depose and give evidence is denied by him, while he was stating that he was giving first aid to the patient.

15. Ex.A2-Accident information Register is reflecting two injuries and the cause of the injuries was due to a road traffic accident.

16. Ex.A7-bunch of medical bills are standing for different amounts i.e. Rs.2,148/-, Rs.506/-, Rs.562/-, Rs.1,045/-, Rs.629/-, Rs.4,200/-, Rs.120/-, Rs.120/-, Rs.340/- and Rs.520/- totaling Rs.10,190/-. The learned MACT awarded only Rs.10,000/- towards the medicines and expenditure. Permanent disability is not shown with any evidence, except the evidence of P.W.2 indicating that the claimant sustained grievous injuries and was hospitalized.

17. There is no other material indicating the medical expenditure and the effect of the injuries. However, the discharge summary-Ex.A6 would indicate that the petitioner was admitted on 31.12.2003 and was discharged on 09.01.2004. Basing on the hospitalization, nature of injuries and Ex.A7-medical bills, the entitlement of claimant for compensation has to be notionally assessed with some reasonable guess work.

Precedential Guidance:

18. 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.¹, 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.**², 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	xxxxxx
Total		Rs. ... xxxxxx

(ii). Hon'ble Apex Court in **Yadava Kumar Vs. Divisional Manager, National Insurance Company Limited and Anr.**,³ vide para No.10, by referring to **Sunil Kumar Vs. Ram Singh Gaud**⁴, 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 Corporation**⁵, 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 :-

¹2025 AIAR (Civil) 1

²2020 (04) SCC 413

³2010(10)SCC 341

⁴2007 (14) SCC 61

⁵1992(2) SCC 567

“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***⁶, 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 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).*

⁶ 2011 (1) SCC 343

(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.***⁷ 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.***⁸. 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 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.*

⁷ 2023 (3) SCC 439

⁸ 1995 (1) SCC 551

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

Sl. No.	Head	Granted by the learned MACT	Fixed by this Appellate Court
1.	Pain and suffering	Rs.5,000/-	Rs.10,000/-
2.	Injury No.1	Rs.10,000/-	Rs.15,000/-
3.	Injury No.2	Rs.1,500/-	Rs.5,000/-
4.	Extra nourishment	-Nil-	Rs.5,000/-
5.	Transportation	-Nil-	Rs.5,000/-
6.	Attendant charges	-Nil-	Rs.5,000/-
7.	Medical expenditure/treatment	Rs.10,000/-	Rs.10,000/-
	Total:	Rs.26,500/-	Rs.55,000/-
	Interest (per annum)	9%	7.5%

Conclusion:

20. 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.55,000/- with interest at the rate of 7.5% per annum and the order and decree dated 14.03.2005 passed by the learned MACT in M.V.O.P.No.204 of 2004 requires modification accordingly.

Point No.2:

21. In the result, the appeal is partly allowed as follows:

- (i) The compensation awarded by the learned MACT in M.V.O.P.No.204 of 2004 at Rs.26,500/- with interest at the rate of 9% per annum is modified and enhanced to Rs.55,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization.
- (ii) Respondent Nos.1 to 3 before the learned MACT are jointly and severally liable to pay the compensation. However, Respondent No.3 / 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 claimant furnishes the bank account number within 15 days from today, the Respondents shall deposit the amount directly into the bank account of the claimant and file the necessary proof before the learned MACT.
 - (b) If the claimant fails to comply with (iii)(a) above, respondent No.3 / Insurance Company shall deposit the amount before the learned MACT and the claimant is entitled to withdraw the amount at once on deposit.
- (iv) There shall be no order as to costs in the appeal.

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

Date:19.06.2026
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A. HARI HARANADHA SARMA, J

HON'BLE SRI JUSTICE A. HARI HARANADHA SARMA

M.A.C.M.A.No.3202 of 2012

19.06.2026

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