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APHC010010052013



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

[3520]

FRIDAY, THE 7th DAY OF AUGUST 2026

PRESENT

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 2149/2013

Between:

1. NAMMI BALAKRISHNA, S/O. APPARAO, HINDU N DRIVER OF MINI LORRY BEARING NO. AP 25 T 8531 R/O. PAPAYYARAJUPALEM VILLAGE, PENDURTHY MANDAL, VISAKHAPATNAM DISTRICT.

...APPELLANT

AND

1. ROMALA NOOKARAJU, S/O. APPARAO, HINDU OWNER OF LORRY BEARING NO. AP 35 T 8531 R/O. GOLLAPETA JUNCTION, ADANNAPALAM JUNCTION, KOTAHVALASA MANDAL,
 2. NATIONAL INSURANCE CO LTD, REP. BY ITS DIVISIONAL MANAGER, VISAKHAPATNAM.

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Court

IA NO: 1 OF 2010(MACMAMP 1237 OF 2010)

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 22 days in presenting the appeal in MACMA.Sr.No.4274 of 2010.

IA NO: 4 OF 2010(MACMAMP 11246 OF 2010)

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

Counsel for the Appellant:

1.JAYANTI S C SEKHAR

Counsel for the Respondent(S):

1.

2.V VEERABHADRA CHARY

The Court made the following:

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA**M.A.C.M.A.No.2149 of 2013****JUDGMENT:****Introductory:**

1. Claimant in M.V.O.P.No.576 of 2006 on the file of the Motor Accident Claims Tribunal-cum-Family Court-cum-Additional District and Sessions Judge, Vizianagaram (for short "the learned MACT"), feeling aggrieved by the order and decree dated 08.10.2009 passed therein, filed the present appeal. As against the claim made for Rs.1,20,000/-, the learned MACT awarded Rs.47,000/- with interest at the rate of 7.5% per annum, making both the respondents liable to pay the same.

2. Respondent No.1 is the owner of the Mini Lorry bearing No.AP 35 T 8531 (hereinafter referred to as "the offending vehicle").

3. Respondent No.2 is the Insurance Company with which the offending vehicle is insured.

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

Case of the claimant:

5. On 04.07.2005, the petitioner, being the driver of the offending vehicle, while driving the same from Alamanda Shandy towards Kothavalasa side, near Addannapalem Village, suddenly a cyclist came across the road, to avert hitting the cyclist, sudden brakes were applied, whereby the

accident occurred and he sustained injuries all over the body. After the accident, he was shifted to Kothavalasa Government Hospital. From there, he was shifted to K.G. Hospital, Visakhapatnam, where he took treatment. As on the date of the accident, the petitioner was aged about 20 years and was earning Rs.3,000/- per month as driver of the lorry, apart from other benefits. Due to the accident, he suffered injuries and permanent disability.

6. A case in Crime No.93 of 2006 was registered for the offences under Sections 337 and 338 of IPC.

7. Respondent No.1, the owner of the offending vehicle, remained *ex parte* before the learned MACT.

Case of respondent No.2 / Insurance Company:

8. The petitioner shall prove the accident and his capacity as the driver of the offending vehicle at the relevant time, valid and effective driving licence and subsistence of the same, issuance of the policy by respondent No.2 and its coverage in respect of the offending vehicle.

Evidence:

9. The petitioner has taken witness stand as P.W.1 and Dr. B. Udaya Kumar, Civil Surgeon (Orthopedic), K.G. Hospital, Visakhapatnam was examined as P.W.2. Petitioner has further relied on Ex.A1-FIR, Ex.A2-wound certificate, Ex.A3-charge sheet, Ex.A4-M.V.I. Report, Ex.A5-O.P. Chit issued by K.G. Hospital, Visakhapatnam, Ex.A6-driving licence, Ex.A7-disability certificate, Ex.A8-latest Photograph and Ex.X1-Case sheet.

Findings of the learned MACT:

10. By referring to the crime record and the evidence of P.W.1, the learned MACT believed the accident, negligence and involvement of the offending vehicle. By referring to the evidence of the petitioner, doctor, wound certificate, disability certificate, etc. and Ex.X1-case sheet indicating the treatment for one month at King George Hospital, Visakhapatnam and Ex.A8-photograph indicating the crush injury, the learned MACT awarded compensation of Rs.47,000/- in all. Contending that the compensation awarded is low, the present appeal is filed.

Arguments in the appeal:**For the appellant:**

11(i). The learned MACT failed to take note earnings of the petitioner as driver.

(ii). The learned MACT failed to note the disability at 20% assessed by the Medical Board.

(iii) The compensation awarded under the various heads is very low.

For the respondents:

12(i). The compensation already awarded is excessive.

(ii). The petitioner himself is negligent, therefore, he cannot take advantage of his own wrong.

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

Scope of appeal:

14. This is an appeal filed by the claimants, dissatisfied with the quantum of compensation. There is no appeal or cross-appeal by the Insurance Company. There was another victim in the accident who was travelling in the offending vehicle. He is the informant and was cited as L.W.1 and the petitioner herein was cited as the accused. Petitioner's role as an accused is different, but since he met with an accident in the course of employment, his claim for compensation and entitlement thereto need not be doubted. They are all out of scope. Therefore, the entitlement of the claimant for compensation and the liability of the respondents are clear. Hence, the scope of the appeal is limited to examining the quantum of compensation to which the claimant is entitled.

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

1) Whether the compensation of Rs.47,000/- awarded by the learned MACT under the impugned judgment dated 08.10.2009 in M.V.O.P.No.576 of 2006 is just and reasonable or requires any interference? If so, on what grounds and to which extent?

2) What is the result of the appeal?

Point No.1:**Precedential Guidance:**

16. 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

¹2025 AIAR (Civil) 1

²2020 (04) SCC 413

³2010(10)SCC 341

⁴2007 (14) SCC 61

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 :-

“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*

⁵ 1992(2) SCC 567

⁶ 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.***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*

⁷ 2023 (3) SCC 439

⁸ 1995 (1) SCC 551

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:

17(i). P.W.1, the petitioner, stated about the occurrence of the accident injuries suffered and the treatment taken. He has stated that he has incurred an expenditure of Rs.20,000/- towards transportation, medicines, extra nourishment etc. He has added that his left hand is disfigured and that he lost grip power. He cannot do hard work and is unable to attend to his normal duties. He is earning Rs.3,000/- per month.

(ii). During cross-examination, it is elicited that he did not lay any claim under the Workmen's Compensation Act and that he did not say that he is opting to claim under the Motor Vehicles Act. However, it is relevant to note that the very fact of his filing the claim under the Motor Vehicles Act would suggest that he has opted to seek compensation under the Motor Vehicles Act.

18(i). P.W.2 / Dr. B. Uday Kumar, Civil Surgeon (Orthopedic), K.G. Hospital, Visakhapatnam, who treated the petitioner has stated that the petitioner was admitted to the hospital with the following injuries:

- 1) A lacerated injury about 2x1/4 inch, skin deep, on the chin margin and ill-defined bleeding present.
- 2) A lacerated injury about 2x1/4 inch, skin deep, on the right knee, red in colour.

3) A lacerated injury about 3x2x1/2 inch on the dorsum of the left hand with irregular margins and bleeding present.

4) Wrist drop on the left hand.

(ii). He has deposed that the patient received a crush injury on his left hand with loss of skin on the dorsum of the hand. All extensor tendons of the hand were cut and the bones were exposed. The patient was treated conservatively. Wound debridement was done under surgical anaesthesia and repeated dressings were done. An operation was conducted on 23.07.2005 and split skin grafting was done. The grievous injury is pertaining to a bone injury only. The patient was discharged on 02.08.2005. There is a big scar present on the left hand and causing cosmetic deformity to the patient and disfigurement is present. The patient finds it difficult to do hard work. The patient cannot lift any weight with his left hand. Due to the crush injury, the patient is suffering from 20% disability, which is partial and permanent in nature. Ex.A7 is the disability certificate issued by P.W.2. During cross-examination, it is elicited that the available medicines were supplied free of cost. As per wound certificate, the patient received only simple injuries. P.W.2 denied the other suggestions as to wound debridement, treatment, surgery, skin grafting etc. Ex.A7 is the disability certificate indicating the disability at 20% and the same is spoken by the doctor.

19. Ex.B1 is the insurance policy and the same was in force. There is no dispute about the same. Applicability of policy to two employees and

compulsory P.A to the owner-cum-driver is also provided under the policy. In view of the same, the entitlement and liability are clear.

Permanent disability:

20. Learned counsel for the appellant would submit that the income of the petitioner is at Rs.3,000/- per month and that towards future prospects at least $1/3^{\text{rd}}$ can be added. Answering the same, learned counsel for the respondent-Insurance Company would submit that the claimed income Rs.3,000/- itself is excessive and that there is no clear proof. The status of the petitioner as a driver is not in dispute. In view of the same, the income of the petitioner at Rs.3,000/- per month can be accepted, which can be taken as inclusive of possibility of future progress in income taking note of socio economic conditions of the year of accident.

21. Therefore, for the purpose of calculating the compensation, the income of the petitioner is taken at Rs.3,000/- per month. 20% of the same comes to Rs.600/- per month and per annum, it comes to Rs.7,200/-. The applicable multiplier is 18, whereby the loss of income comes to Rs.1,29,600/-. Therefore, under the head of permanent disability, the entitlement of the claimant for compensation is Rs.1,29,600/- (Rs.7,200/- x 18).

22. Upon considering the nature of the injuries, the period of hospitalization and the facts and circumstances of the case, 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.	Simple injuries(3)	Rs.9,000/-	Rs.15,000/-
2.	Grievous injury(1)	Rs.15,000/-	Rs.20,000/-
3.	Attendant charges	Rs.3,000/-	Rs.10,000/-
4.	Pain and suffering	Rs.5,000/-	-Nil- (Since covered under the heads at Sl.Nos.1 and 2)
5.	Extra nourishment	Rs.5,000/-	Rs.10,000/-
6.	Transportation	Rs.5,000/-	Rs.10,000/-
7.	Loss of earnings due to permanent disability	-Nil-	Rs.1,29,600
8.	Loss of earnings during the period of hospitalization	Rs.5,000/-	Rs.6,000/-
	Total:	Rs.47,000/-	Rs.2,00,600/-
	Interest (per annum)	7.5%	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.2,00,600/- with interest at the rate of 6% per annum and the order and decree dated 08.10.2009 passed by the learned MACT in M.V.O.P.No.576 of 2006 requires modification accordingly.

Granting of more compensation than what claimed, if the claimants are otherwise entitled:-

24. The legal position with regard to awarding more compensation than what claimed has been considered and settled by the Hon'ble Supreme

Court holding that there is no bar for awarding more compensation than what is claimed. For the said proposition of law, this Court finds it proper to refer the following observations of the Hon'ble Supreme Court made in:

- (1) **Nagappa Vs. Gurudayal Singh and Others**⁹, at para 21 of the judgment, that –

“..there is no restriction that the Tribunal/Court cannot award compensation amount exceeding the claimed amount. The function of the Tribunal/Court is to award “just” compensation, which is reasonable on the basis of evidence produced on record.”

- (2) **Kajal Vs. Jagadish Chand and Ors.**¹⁰ at para 33 of the judgment, as follows:-

“33. We are aware that the amount awarded by us is more than the amount claimed. However, it is well settled law that in the motor accident claim petitions, the Court must award the just compensation and, in case, the just compensation is more than the amount claimed, that must be awarded especially where the claimant is a minor.”

- (3) **Ramla and Others Vs. National Insurance Company Limited and Others**¹¹ at para 5 of the judgment, as follows:-

“5. Though the claimants had claimed a total compensation of Rs 25,00,000 in their claim petition filed before the Tribunal, we feel that the compensation which the claimants are entitled to is higher than the same as mentioned supra. There is no restriction that the Court cannot award compensation exceeding the claimed amount, since the function of the Tribunal or Court under Section 168 of the Motor Vehicles Act, 1988 is to award “just compensation”. The Motor Vehicles Act is a beneficial and welfare legislation. A “just compensation” is one which is reasonable on the basis of evidence produced on record. It cannot be

⁹ (2003) 2 SCC 274

¹⁰ 2020 (04) SCC 413

¹¹ (2019) 2 SCC 192

said to have become time-barred. Further, there is no need for a new cause of action to claim an enhanced amount. The courts are duty-bound to award just compensation.”

Point No.2:

25. In the result, the appeal is allowed as follows:

- (i) The compensation awarded by the learned MACT in M.V.O.P.No.576 of 2006 at Rs.47,000/- with interest at the rate of 7.5% per annum is modified and enhanced to Rs.2,00,600/- with interest at the rate of 6% per annum from the date of petition till the date of realization.
- (ii) Claimant is liable to pay the court fee for the enhanced part of the compensation, before the learned MACT.
- (iii) Respondent Nos.1 and 2 before the learned MACT are jointly and severally liable to pay the compensation. However, Respondent No.2 / Insurance Company is liable in view of the Insurance Policy.
- (iv) 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 (iv)(a) above, respondent No.2 / Insurance Company shall deposit the amount before the

learned MACT and the claimant is entitled to withdraw the amount at once on deposit.

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

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

A. HARI HARANADHA SARMA, J

Date:07.08.2026
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Whether the order is:

Speaking		Reasoned	✓
Reportable		Non-reportable	✓

HON'BLE SRI JUSTICE A. HARI HARANADHA SARMA

M.A.C.M.A.No.2149 of 2013

07.08.2026

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