

APHC010325522019



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

[3333]

MONDAY, THE SECOND DAY OF MARCH
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 283/2022

Between:

1.GADDAM SUDHAKAR REDDY, S/O. BAYA REDDY, 40 YEARS
R/O.DOOR NO.45/505, BALAJI NAGAR, KADAPA CITY

...APPELLANT

AND

1.SMT D REVATI, W/O.D.SIVA KUMAR TVS XL MOTOR CYCLE OWNER
RESIDING AT DOOR NO.4/983 KUMMARA KOTTALA, PRODDATUR
KADAPA DISTRICT - 516431

2.NEW INDIA ASSURANCE COMPANY LIMITED, REP.BY ITS DIVISIONAL
MANAGER, HAVING ITS DIVISION OFFICE AT 1ST FLOOR SAIRAM
TOWERS, NAGARAJUPETA, KADAPA CITY - 516 001

3.D SIVA KUMAR, S/O.LAKSHMI NARAYANA RESIDING AT DOOR
NO.4/983 KUMMARA KOTTALA, PRODDATUR KADAPA DISTRICT -
516431

...RESPONDENT(S):

Counsel for the Appellant:

1.G RAMESH BABU

Counsel for the Respondent(S):

1.

2.M R K CHAKRAVARTHY

The Court made the following:

THE HONOURABLE SMT JUSTICE V.SUJATHA**MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 283/2022****J U D G M E N T:**

1. This Motor Accident Civil Miscellaneous Appeal (for short MACMA) has been preferred by the claimant/Petitioner seeking enhancement of compensation amount being aggrieved by the order and decree passed by the Chairman, Motor Accident Claims Tribunal (for short MACT) –cum- I Additional District Judge, Kadapa, in M.V.O.P.No.225 of 2016 dated 10.06.2019, wherein the Tribunal has awarded an amount of Rs.6,26,200/- as against the claim of Rs.10,00,000/-.

For the sake of convenience and to avoid confusion, the parties hereinafter are referred to as they were arrayed before the Tribunal i.e., Appellant as claimant/Petitioner; and Respondents as Respondents.

2. This petition is filed by the petitioner under section 166 of Motor Vehicles Act and Rule 455 of A.P. Motor Vehicle Rules, claiming compensation of Rs.10,00,000/- for the injuries sustained by him in a motor vehicle accident that occurred on 24.12.2014 at about 03.45 p.m., near Peace Islamic International School Board, Mariyapuram on I.T.I., to Built-up circle road, Kadapa. Initially the claim petition was filed by the petitioner claiming compensation of Rs.4,00,000/- and subsequently the same was enhanced to Rs.10,00,000/- as per orders in I.A.No.659 of 2017, dated 14.07.2017.

3. Brief averments of the claim petition in MVOP No.225 of 2016 are that - the petitioner was aged about 35 years, doing real estate business and earning Rs.50,000/- per month. On 24.12.2014 afternoon the petitioner was going by walk on the extreme left side of the road towards electricity office at built-up circle from I.T.I., circle, to pay the electricity bill. At about 03.45 p.m., the petitioner reached near Peace Islamic International School Board, Mariyapuram on I.T.I., to built-up circle road, meanwhile one TVS XL bearing No.AP 04AF 5640 came from I.T.I., circle side i.e., behind the petitioner driven by its rider – 3rd respondent in a rash and negligent manner, with high speed and lost control over the vehicle and dashed the petitioner. As a result, the petitioner fell down and sustained serious fracture injuries, shifted to RIMS Hospital, Kadapa and he took treatment, underwent surgery to his left leg. After discharge from the hospital the petitioner took treatment in Private Hospitals at Kadapa. He spent about Rs.50,000/- towards his treatment and transportation. His injuries not completely healed and still he is undergoing treatment as outpatient. He is unable to walk and carry out his daily activities, sustained permanent disability and lost his earning capacity. The accident occurred only due to the rash and negligent act of the rider of the offending vehicle i.e., 3rd respondent. The 1st respondent is the owner and second respondent is the insurer of the offending vehicle. Hence, Respondents No.1 to 3 jointly and severally liable to pay compensation amount to the petitioner.

4. Respondents No.1 and 3 have been remained *ex-parte*.

5. 2nd respondent insurance company filed written statement denying the contents of the petition and disputed the nature of the accident, involvement of the vehicle, rash and negligent act of the 3rd respondent and contended that the 3rd respondent was not having valid and effective driving license to drive the offending vehicle as on the date of accident, hence 2nd respondent company has no liability to indemnify the 1st respondent for breach of terms of the policy. It also disputed about the nature of the injuries, treatment underwent by the petitioner, medical expenses incurred by him and the extent of disability claimed in the petition along with the age and income of the petitioner and prayed to dismiss the petition.

After amendment of petition by enhancing compensation from Rs.4,00,000/- to Rs.10,00,000/-, 2nd respondent filed additional written statement contending that there is no proof to substantiate the additional claim of the petitioner and prayed to dismiss the claim of the petition.

6. Basing on the above pleadings, the following issues were settled for trial by the Tribunal:-

- 1) Whether the petitioner sustained injuries in a motor vehicle accident which occurred on 24.12.2014 due to rash and negligent driving of the rider of the Motorcycle TVS XL bearing No.AP 04AF 5640?
- 2) Whether the petitioner is entitled for compensation, if so, to what amount and from whom?
- 3) To what relief?

7. To prove the claim of Petitioner, Petitioner himself examined as P.W.1, Dr. C.Sanjeevaiah examined as P.W.2 and to prove his income one Sirivella Raju examined as P.W.3 and also got marked Ex.A.1 - attested copy of the F.I.R., in Cr.No.5 of 2015 of Traffic Police Station, Kadapa; Ex.A.2 - attested copy wound certificate issued by RIMS Hospital, Kadapa; Ex.A.3 - attested copy of X-Ray report; Ex.A.4 - attested copy of requisition filed by Sub Inspector of Police, Traffic Police Station, Kadapa for transfer of case file in Cr.No.5 of 2015 under section 338 of I.P.C., to Lok-Adalath; Ex.A.5 - Photostat copy of insurance policy; Ex.A.6 - Photostat copy of the aadhar card; and Ex.A.7 – Disability certificate of petitioner.

On behalf of 2nd respondent, none were examined and no documents were marked.

8. Upon hearing learned Counsel for Petitioner as well as 2nd Respondent and upon perusing oral and documentary evidence on record, the Tribunal awarded Rs.6,26,200/- as compensation to the petitioner, directing respondents No.1 to 3 jointly and severally to pay compensation amount to the petitioner within two (02) months from the date of order, together with interest at 7.5% p.a from the date of petition till the date of realization, along with costs.

9. Being aggrieved by the said Order and decree the petitioner/ claimant has preferred the present appeal on the grounds that – the Tribunal committed manifest error in assessing monthly income of appellant at Rs.9,000/- per month against Rs.50,000/- per month in spite of evidence of P.W.3 and also committed error in assessing the age of the appellant at 45 years as on the date of accident by ignoring Ex.A.2 – wound certificate, which shows the age of appellant as 35 years as on 07.01.2015 and applied wrong multiplier “14” by assessing over age.

10. Heard the learned Counsel for appellant as well as respondent and perused the material available in record.

11. The case of the claimant is that as per Ex.A.1 – F.I.R and Ex.A.2 – wound certificate, age of the deceased was 35 years as on 07.01.2015, but the Tribunal wrongly considered the age in accordance with Ex.A.7 – Disability Certificate, as per which the age of the deceased is in between 41 - 46 years and

accordingly assessed the age of the petitioner as 45 years and applied the multiplier “14”, without considering the age shown in Ex.A.2 as well as claim petition, wherein the claimant has specifically stated that he is aged about 35 years as on the date of accident.

12. On perusal of the Order, it can be observed that the age of the deceased as per his claim petition is 35 years. In Ex.A.1 – F.I.R it is shown as 40 years and in Ex.A.2 it is shown as 35 years as on 07.01.2015 and Ex.A.7 – disability certificate shows the age of the petitioner in between 41 - 46 years as on 02.09.2016. In view of the same, as Ex.A.7 – Disability Certificate is being issued by a Medical Board, the Tribunal has considered the age of the petitioner in between 41 – 45 years as on the date of accident. Though it is the case of the claimant that he is doing real estate business and earning Rs.50,000/- per month, in the absence of the documentary evidence, the Tribunal considered the income of the claimant as Rs.300/- per day, therefore, the monthly income would come to Rs.9,000/-. Accordingly, annual income would come to Rs.1,08,000/- (Rs.9,000 X 12). Considering the evidence on record that the claimant sustained fracture of left tibia, the Tribunal considered the permanent disability as 35%, therefore, the loss of income of the claimant is calculated as Rs.37,800/- p.a. (Rs.1,08,000 x 35/100). As the age of the claimant is 41 to 45 years (as discussed supra) as on the date of the accident, after applying the appropriate multiplier i.e. 14, as per the decision of the Hon’ble Apex Court in “**Sarla Verma**

Vs. Delhi Transport Corporation¹”, the loss of income due to permanent disability of 35%, would come to (Rs.37,800 X14) Rs.5,29,200/-.

13. In addition to the above, the Tribunal also awarded a sum of Rs.50,000/- for the fracture sustained by the claimant, Rs.27,000/- towards loss of income for a period three months, Rs.10,000/- towards medical expenditure, Rs.5,000/- towards transportation charges, Rs.5,000/- towards extra nourishment. In total, the Tribunal below awarded Rs.6,26,200/- to the claimant.

14. Considering the material available on record, this Court is of the considered opinion that the amount of Rs.6,26,200/- awarded by the Tribunal to the claimant, for the permanent disability sustained by him, was on reasonable basis and is sustainable under law, which needs no interference.

15. Accordingly, the Motor Accident Civil Miscellaneous Appeal is dismissed. No costs.

Consequently, pending miscellaneous applications, if any, shall stand closed.

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Dated 02.03.2026.

JUSTICE V.SUJATHA

¹ 2009 ACJ 1298

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THE HONOURABLE SMT JUSTICE V.SUJATHA

MOTOR ACCIDENTS CIVIL MISCELLANEOUS APPEAL NO: 283 /2022

DATED 02.03.2026

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