



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

[3506]

MONDAY, THE FOURTH DAY OF AUGUST
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE CHALLA GUNARANJAN

**MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO:
683/2024**

Between:

1. THE RELIANCE GENERAL INSURANCE CO LTD, REP. BY ITS
LEGAL MANAGER, DOOR NO.4-1-327, 4RT FLOOR, SAGAR
PLAZA, ABIDS, ABIDS ROAD, HYDERABAD.

...APPELLANT

AND

1. AYON DUTTA, S/O. LATE DENU DUTTA, HINDU, AGED ABOUT
10 YEARS, BEING MINOR, REP. BY HIS MOTHER AND
NATURAL GUARDIAN SAMPA DUTTA, RESIDENT OF DOOR
NO.21-7-142/A, MALAKAR, GULZAR HOUSE, CHARMINAR,
HYDERABAD, TELANGANA STATE.
2. MOHAMMAD SHAKEER, S/O. MOHAMMAD ZAKIR, MUSLIM,
AGED NOT KNOWN, DRIVER OF THE CAR BEARING NO. AP
12 G 1821, RESIDENT OF DOOR NO.21-1-646, SHAKEER
KOTA, CHARMINAR, HYDERABAD.
3. ASHOK KUMAR AGARWAL, FATHERS NAME NOT KNOWN,
HINDU, AGED NOT KNOWN. OWNER OF THE CAR BEARING
NO. AP 12 G 1821, RESIDENT OF DOOR NO.21-7-556, GHANSI
BAZAR, JUBILEE, HYDERABAD.

...RESPONDENT(S):

Appeal filed under Order 41 of CPC praying that the High Court
may be pleased to allow this appeal by setting aside the

decree and judgment passed in M.V.O.P.No.41 of 2018 on the file of the Motor Accidents Claims Tribunal - Cum- XVI Additional District and Sessions Judge's Court, Nandigama, dated 24th day of February, 2024 and pass....

Counsel for the Appellant:

1.GUDI SRINIVASU

Counsel for the Respondent(S):

1.P V N KIRAN KUMAR

The Court made the following:

THE HONOURABLE SRI JUSTICE CHALLA GUNARANJAN**M.A.C.M.A.No.683 of 2024****JUDGMENT:**

This appeal is filed by the Reliance General Insurance Co. Ltd. ("the insurer") under Section 173 of the Motor Vehicles Act, 1988 (for short "the Act") assailing order, dated 24.02.2024, passed in M.V.O.P. No.41 of 2018 on the file of the Chairman, Motor Accident Claims Tribunal-cum-XVI Additional District and Sessions Judge, Nandigama ("for short, "the Tribunal"), by which, Tribunal determined compensation of Rs.22,56,000/- to the injured/claimant besides interest at the rate of 7.5% p.a. from the date of petition till realisation and costs.

2. For the sake of convenience, parties herein are referred to as they were arrayed before the Tribunal.

3. Brief facts relating to the present appeal in a nutshell are as follows:

(a) The injured was aged 10 years when the incident occurred. On 01.06.2015 while he along with his father and other person travelling by car bearing Registration No.AP 12 G 1821 from Hyderabad to Kolkata, met with accident. The driver of car, being negligent and unable to control speed, dashed divider, while they were reaching Thotacharla Cross on NH-65 Road, Penuganchiprolu Mandal at about

6.00 A.M., resultantly, the car turned turtle and he along with others sustained injuries. He was initially shifted to Government Hospital at Nandigama, later to HELP Hospital at Vijayawada for better treatment. Crime No.64 of 2015 was registered for the offences punishable under Sections 304-A and 338 of IPC against driver of the car. He received grievous injuries i.e., on left ganglionic intracerebral haematoma, left partial occipital contusors and diffuse cerebral Edema. He underwent treatment in the above Hospital from 01.06.2015 to 11.06.20215 and thereafter, shifted to S.V.S. Hospital at Hyderabad in critical condition. He was admitted on 21.08.2015 and was treated there till 18.11.2015. Mother of minor boy laid the present claim as a natural guardian under Section 166 of the Act and Rule 455 of A.P. Motor Vehicles Rules, 1989, claiming for compensation of Rs.12.00 Lakhs with interest and costs.

(b) 1st respondent, driver of the car, and 2nd respondent, owner of the car, remained *ex parte*. 3rd respondent Insurer filed written statement denying and contesting the claim.

(d) Based on the aforesaid pleadings available on record, the Tribunal has framed following issues:

- “1. Whether the pleaded accident occurred on 01.06.2015 at about 6.00 hours at Thotacharla Village X-Road, NH-65 Road, Penuganchiprolu Mandal, Krishna District, was due to rash and negligent driving of driver of the car bearing No. AP 12 G 1821 and whether it resulted injuries to the petitioner or not?
2. Whether the petitioner is entitled for compensation as prayed for? If so, to what amount and from which of the respondent?
3. To what relief?

(e) In order to prove the case of the claimant - minor's mother got examined as P.W.1 and the doctors, who treated the injured at different hospitals were examined as PW.2 to P.w.5 and got marked Ex.A1 to Ex.A29. None were examined for respondents nor any documents were marked.

(f) The Tribunal, upon considering evidence of PW.1 besides Ex.A.1 FIR, Ex.A.2 M.V.I. Report and Ex.A.3 charge-sheet, came to conclusion that firstly, accident occurred, secondly, that it was on account of rash and negligent act of the driver, the car turned turtle causing injuries to the claimant and others. Coming to the aspect of injuries, the doctors, who have treated injured at Government ENT Hospital at Hyderabad (PW.2), S.V.S. Institute of Neuro Sciences, Hyderabad (PW.3), Aditya Hospital, Hyderabad (PW.4) and HELP Hospital, Vijayawada (PW.5) spoke about the injuries sustained and treatment rendered to the claimant, which were found to be grievous in nature and that the injured had to undergo extraordinary pain and suffering in the process. Having come to conclusion that the injuries were severe in nature and that claimant had spent considerable amount on account of medical treatment, considering the medical bills produced in Exs.A.6, A.16 and A.18, an amount of Rs.12,46,000/- came to be allowed towards medical expenses. The doctors have spoke that claimant was on ventilator, needed tracheotomy and has intellectual

problem as he cannot speak and write properly, therefore, the Tribunal assessed the pain and suffering by awarding compensation of Rs.6,00,000/-; Rs.1,00,000/- was awarded towards loss due to reduction in expectation of life and Rs.2,00,000/- towards loss of prospects of education besides granting transport, attendant, diet and nutrition charges, in total awarded an amount of Rs.22,56,000/-. Assailing the same, 3rd respondent – insurer preferred the present appeal.

4. Heard Sri Gudi Srinivasu, learned counsel for the Appellant and Sri P.V.N.Kiran Kumar, learned counsel for the 1st respondent/ Claimant.

5. Learned counsel for the appellant has mainly contested the appeal on two counts, viz., (i) regarding medical expenses and (2) pain and suffering. He contended that the amounts awarded towards aforesaid heads are without any basis and far excessive.

6. On the other hand, learned counsel for the 1st respondent/claimant tried to justify the impugned order by submitting that the Tribunal has rightly, on appreciation of evidence and material available on record, determined the compensation towards medical expenses and also pain and suffering, the same does not warrant any interference.

7. Perused the record and considered the rival submissions of both the learned counsel.

8. The claimant initially laid claim for Rs.20,00,000/- along with interest. The present appeal does not challenge the liability, but however, lays challenge on the quantum and that too only on two heads of determination. Claimant initially met with accident on 01.06.2015 and was taken to nearby Government Hospital and later shifted to HELP Hospital at Vijayawada. He underwent treatment there from 01.06.2015 to 11.08.2015 for injuries of left Ganglionic intra cerebral haematoma, left parietal occipital contusions and diffuse of cerebral Edema. For better treatment on account of complications developed, he was shifted and admitted in SVS Hospital at Hyderabad, where he underwent treatment from 21.08.2015 till 18.11.2015 for traumatic brain injury. Subsequently, as claimant had ENT problem, he was admitted in Government ENT Hospital, Hyderabad, on 03.10.2016 and was under treatment till 29.10.2016. Later, he was again admitted in Aditya Hospital at Hyderabad, on 05.12.2019 for complaint of Epilepticus history of seizure activity and got discharged on 09.12.2019. Besides this, claimant has been regularly getting physio therapy treatment and also attending to specialized doctors at Shrithi Hospital, Hyderabad as outpatient. All the above narrated sequences are either spoken by PW.1, in corroboration with doctors, who treated the boy i.e. PW.2 to

PW.5, supported by Exs.A.7 to A.29, which are medical records, prescriptions and bills. The Tribunal after evaluating all the above evidence has come to conclusion that the injured was treated at multiple hospitals for different treatments, thereby incurred Rs.12,45,856/- towards medical expenses rounded to Rs.12,46,000/- Though, learned counsel for the appellant vehemently contended that the medical expenses awarded are without basis and excessive, a close glance of the findings juxtaposed with the evidence brought on record clearly indicate that the amount awarded by the Tribunal is fairly justified and amply supported with sufficient evidence. Further, likewise, the boy was in continuous treatment from day one i.e., on 01.06.2015 onwards at various hospitals, going through multiple treatments, and he continued to take treatment even when the claim was being adjudicated by the Tribunal. For a boy of 10-year-old at the time of the accident, to go through such difficult times, enduring severe pain and suffering, is inexplicable. Though learned counsel for the appellant contended that there is no basis for quantifying pain and suffering as Rs.6,00,000/-, considering the nature of injuries, age of the boy, nature of treatment availed and having regard to the evidence of doctors, who treated the boy, this Court finds that amount awarded towards pain and suffering is well justified. The clock will not stop there, as the boy will continue to carry the trauma and suffering he has endured over the past several

years, and as the injuries are grievous, he will likely struggle in both the present and the years to come. Except for stating that the amounts awarded are higher side, the insurer has not brought in any contrary material or evidence, to prove otherwise. The Tribunal, considering the same also awarded loss of prospects of education, as he is deprived of the same and loss due to reduction in expectation of life. The amounts awarded by Tribunal under different heads are just and reasonable and hence, warrant no interference.

9. Accordingly, this Court finds no merit in the appeal and the same stands dismissed. No order as to costs.

10. The appellant Insurer is directed to deposit the balance amount of compensation before the Tribunal in terms of the impugned order within eight weeks from the date of receipt of a copy of this judgment and on such deposit, 1st respondent/claimant is permitted to withdraw the same.

As a sequel, Interlocutory Applications pending, if any, shall stand closed.

JUSTICE CHALLA GUNARANJAN

Date:04.08.2025

CS