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APHC010543752015

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

[3520]

FRIDAY, THE TENTH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 1552/2015

Between:

1. K.V.V.PRASAD, KURNOOL, S/O. K.S.R.MURTHY, OCC: DEPUTY EXECUTIVE ENGINEER PANCHAYAT RAJ DEPARTMENT, R/O. H.NO. 44-86-A-302, SLN MANSION, PRAKASH NAGAR, KURNOOL.

...APPELLANT

AND

1. A P S R T C KURNOOL DEPOT, Rep by its managing Director and Chairman, Musheerabad, Hyderabad, Bus 'bearing No. AP-28-Z-3263, Kurnool Depot.

...RESPONDENT

Appeal filed under Order 41 of CPC praying thet the Highcourt may be pleased toagainst the Order and decree passed in MVOP.No. 7/2012 dt. 29-05-2015 on the file of the Motor Accidents Claims Tribunal-cum-IV Additional District Judge, Kurnool.

Counsel for the Appellant:

1. J JANAKIRAMI REDDY

Counsel for the Respondent:

1. ARAVALA RAMA RAO(SC FOR APSRTC KKAC)

The Court made the following:

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

M.A.C.M.A.No.1552 of 2015

JUDGMENT:

Introductory:

1. This appeal is directed against the order and decree dated 29.05.2015 passed in M.V.O.P.No.7 of 2012 by the Chairman, Motor Accidents Claims Tribunal-cum-IV Additional District Judge, Kurnool(for short "the learned MACT"). The claimant/petitioner before the learned MACT is the appellant herein.

2. Feeling aggrieved and dissatisfied with the quantum of compensation of Rs.54,100/- awarded as against the claim made for Rs.10,00,000/-, the present appeal is filed seeking enhancement of compensation.

3. The respondent herein is A.P.S.R.T.C., owner of the bus bearing Registration No.AP 28 Z 3263 (hereinafter referred to as "the offending vehicle").

4. For the sake of convenience, the parties will be hereinafter referred to as the petitioner/claimant and the respondent, as and how they are arrayed in the impugned proceedings.

Case of the claimant:

5(i). On 14.02.2011, at about 05:00 A.M., while the claimant was travelling in A.P.S.R.T.C. Bus / the offending vehicle from Chennai to Kurnool, when the bus reached near Hussainaiah Swamy Darga, near Duvvur, the driver of the bus

drove it in a rash and negligent manner and dashed against a stationed lorry bearing No. AP 16 TV 3507, resulting in the accident.

(ii). As a result of the said accident, the claimant sustained grievous injuries including fracture of left femur, fractures of both bones of left leg, tibia and fibula and other multiple injuries. Initially, he was shifted to A.P. Vaidya Vidhana Parishad, District Hosptial, Proddatur, Kadapa District for treatment and thereafter to Sri New Balaji Super Specialty Hospital, Kurnool and subsequently to KIMS Hospital, Secunderabad, for better treatment.

(iii). The claimant was hale and healthy prior to the accident and was working as Deputy Executive Engineer in Panchayat Raj Department, Kurnool. For treatment etc. he has incurred huge medical expenses and suffered pain and disability and is unable to attend to his normal duties.

Case of the respondent / A.P.S.R.T.C.:

6(i). The accident occurred due to negligent parking of the lorry

(ii). A false case is foisted against the driver of the A.P.S.R.T.C bus / offending vehicle with false allegations.

(iii). The claim is excessive.

(iv). The petition is bad for non-joinder of necessary parties.

Evidence before the learned MACT:

7(i). The petitioner was examined as P.W.1 and one Dr. I. Viswanath Reddy, who treated the petitioner was examined as P.W.2.

(ii). The petitioner relied upon Exs.A1 to A7, which include FIR, charge sheet, wound certificate, discharge summary, outpatient review card and bunch of medical bills.

(iii). No oral or documentary evidence was adduced on behalf of the respondent.

Findings of the learned MACT:

8(i). The accident occurred due to rash and negligent driving of the driver of the APSRTC bus / offending vehicle.

(ii). The petitioner failed to prove his case with regard to disability.

(iii). In total, the claimant is entitled for a sum of Rs.54,100/-.

Arguments in the Appeal:

For the claimant:

9(i). The compensation awarded by the learned MACT is very meager and wholly inadequate as the nature of injuries are grievous and treatment was taken by the claimant for a long period.

(ii). The learned MACT failed to appreciate the documentary evidence under Ex.A5 and Ex.A7, which clearly establishes medical expenditure incurred by the claimant.

(iii). The learned MACT erred in not granting medical expenses on the ground of partial reimbursement by the employer, which is contrary to the settled principles of law.

(iv). The learned MACT failed to consider the evidence of P.W.2, the doctor who treated the claimant, regarding the nature of injuries and treatment.

(v). The learned MACT ought to have granted reasonable compensation under all relevant heads including medical expenses, disability, pain and suffering and loss of amenities.

For the respondent / A.P.S.R.T.C.:

10(i). The learned MACT has rightly appreciated the evidence and awarded just compensation.

(ii). There are no grounds to interfere.

Scope of appeal:

11. This is an appeal filed by the claimant. There is no cross-appeal by the respondent concerned with the offending vehicle. Therefore, the negligence, liability and entitlement of the claimant for compensation are all out of dispute.

12. The only point that requires consideration is the just and adequate nature of the compensation awarded by the learned MACT.

13. Now, the points that arise for determination in this appeal are:

1) Whether the compensation Rs.54,100/- awarded by the learned MACT under the order and decree dated 29.05.2015 in M.V.O.P.No.7 of 2012 is just and reasonable or requires any modification; if so, to what extent and on what grounds?

2) What is the result of the appeal?

Point No.1:

Precedential Guidance with regard to quantum of compensation:

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.***[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

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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 :-

> *"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*

[2] *2020 (04) SCC 413*
[3] *2010(10)SCC 341*
[4] 2007 (14) SCC 61
[5] 1992(2) SCC 567

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).

(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

[6] 2011 (1) SCC 343

> *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.*

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[7] 2023 (3) SCC 439
[8] 1995 (1) SCC 551

Analysis and reasoning:

15. The compensation awarded by the learned MACT under various heads is as follows:

Sl.No.	Head	Amount
1.	Medical Expenditure	Rs.4,100/-
2.	Grievous injuries	Rs.20,000/-
3.	Attendant and Transport charges	Rs.10,000/-
4.	Pain and suffering	Rs.10,000/-
5.	Extra Nourishment	Rs.10,000/-
	Total	**Rs.54,100/-**

16(i). The petitioner, as P.W.1 has clearly stated about the grievous injuries and fractures suffered by him on left femur, fracture of both bones of left leg i.e. tibia and fibura and multiple injuries all over the body. He was taken to Andhra Pradesh Vidya Vidhana Parishad Hosptial, Proddatur, Kadapa District. After giving first aid, he was shifted to Sri New Balaji Super Speciality Hospital at Kurnool, where he was admitted under IP No.144 on 14.02.2011. From there, on 15.02.2011, he was shifted to KIMS Hospital, Secunderabd . At KIMS Hospital, the following injuries are noted :

1) Comminuted intertrochanteric fracture of left femur.

2) Fracture both bones of left leg.

3) Fracture of left 7th and 8th ribs.

4) Body of right Fubis fracture.

(ii). At KIMS Hospital, he was given the following treatment:

a) ORIF with 10 x 36 Nebula PFN for IT fracture left.

b) CRIF with 10 x 33 synthes Syn Nail for tibia fracture left.

(iii). He was in KIMS hospital from 15.02.2011 to 05.03.2011 under Admission No.IP 89126 in Ward TWINSHARING/5419 A, UMR No.0000317834 and attended further treatment from 28.05.2011 to 11.06.2011, incurring expenditure of Rs.2,61,116/-. He has further claimed that he was under supervision of Dr.M. Rambhoopal Reddy, Kurnool from 02.04.2011 to 05.09.2011 and under the advice of KIMS doctors and incurred expenditure of Rs.26,200/- towards Physiotherapy treatment. Further, towards transportation charges, he has incurred expenditure of Rs.25,000/-.

(iv). Ex.A3 is the wound certificate and Ex.A4 is the discharge summary issued by Sri New Balaji Super Speciality Hospital, Kurnool. Ex.A5 is the bunch of medical bills from KIMS hospital from 15.02.2011 to 05.03.2011. Ex.A6 is the out patient review card issued by KIMS Hospital. Ex.A7 is a bunch of medical bills.

(v). During cross examination he has stated that he got medical reimbursement and received an amount to the tune of Rs.90,000/-.

(vi). On the ground that he has not filed the proceedings for receipt of Rs.90,000/-, the learned MACT denied the entire amount, assuming that the total amount was received as reimbursement. Physiotherapy bills are also denied.

17. P.W.2 / Dr. I. Viswanatha Reddy, Orthopedic Surgeon at KIMS Hospital, deposed about the four injuries and four fractures referred to above and also the treatment given at KIMS hospital. He has stated about the Ex.A5 bills and Ex.A6 outpatient review card pertaining to the hospital. He further stated that, after surgery, there is possibility of removal of implants if he develops any symptoms referable to the nails inserted at the time of primary surgery.

18. No evidence is adduced on behalf of the respondents.

19. When the medical bills are clear and when there is fair admission that Rs.90,000/- is received, denial of the total medical expenditure mentioned in Ex.A5 by the learned MACT is found to be an incorrect approach. The claimant is entitled for Rs.1,71,116/- after deduction of Rs.90,000/- admittedly received. Further, with regard to physiotherapy also, the claimant is entitled for Rs.25,000/- claim with the evidence available vide Ex.A7.

20. The claimant is also entitled for compensation under the heads of pain and suffering, attendant charges, transportation expenses although he is not entitled for loss of income for permanent disability for want of proper evidence.

21. 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:

Sl. No.	Head	Granted by the learned MACT	Fixed by this Appellate Court
1.	Pain and suffering	Rs.10,000/-	**Rs.50,000/-**
2.	Grievous injuries	Rs.20,000/-	**Rs.1,00,000/-**
3.	Extra nourishment	Rs.10,000/-	**Rs.25,000/-**
4.	Transportation	Rs.10,000/-	**Rs.25,000/-**
	Attendant charges		**Rs.25,000/-**
5.	Medical expenditure/treatment	Rs.4,100/-	**Rs.1,71,116/-**
6.	Loss of income / earnings during the period of hospitalization etc.	-Nil-	**Rs.10,000/-**
7.	Loss of amenities of life	-Nil-	**Rs.20,000/-**
8.	Future medical treatment etc.	-Nil-	**Rs.30,000**
	Total:	Rs.54,100/-	**Rs.4,56,116/-**
	Interest (per annum)	9%	6%

22. 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.4,56,116/- with interest at the rate of 6% per annum and the order and decree dated 29.05.2015 passed by the learned MACT in M.V.O.P.No.7 of 2012 requires modification accordingly.

Point No.2:

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

(i) The compensation awarded by the learned MACT in M.V.O.P.No.7 of 2012 at Rs.54,100/- with interest at the rate of 9% per annum is modified and enhanced to Rs.4,56,116/- with interest at the rate of 6% per annum from the date of petition till the date of realization.

(ii) Respondent before the learned MACT is liable to pay the compensation.

(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 Respondent / APSRTC 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 / APSRTC 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.

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

A. HARI HARANADHA SARMA, J

Date:10.04.2026
Knr

HON'BLE SRI JUSTICE A. HARI HARANADHA SARMA

M.A.C.M.A.No.1552 of 2015

10.04.2026

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