



2025:TSHC:58001

[3448]

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**FRIDAY, THE FIFTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE JUSTICE B.R.MADHUSUDHAN RAO

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 3791 OF 2008

Appeal filed under Section 173 of Motor Vehicles Act against the order and decree in M.V.O.P.No. 1411 of 2001 dated 8/12/2005 on the file of the Court of the Chairman, Motor Accident Claims Tribunal-Cum-IV Additional District Judge (Fast Track Court) at Nizamabad.

Between:

Mohd. Ibrahim Khan, S/o. Mohd. Nabi Khan, aged 34 years, Occ: Cloth Business R/o. Degloor, Nanded, Presently R/o.9-12-115, Ahmedpura Colony, Nizamabad District.

...CLAIMANT/APPELLANT

AND

1. Assistant Director of Animal Husbandry., (Rindrapost Eradiction Scheme) Chevella, Ranga Reddy District, Owner of the Tempo Trax Jeep No.AP-28-C-9590.
2. Government of Andhra Pradesh, rep., by its, Director, Animal Husbandry, Hyderabad.

...RESPONDENTS/RESPONDENTS

Counsel for the Appellant: Sri P. Radhive Reddy

Counsel for the Respondents: GP for Services

The Court delivered the following: JUDGMENT



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**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

THE HON'BLE JUSTICE B.R.MADHUSUDHAN RAO

MACMA.No.3791 of 2008

DATED: 05th DECEMBER, 2025

Between:

Mohd. Ibrahim Khan

... Appellant/Claimant

And

1. Assistant Director of Animal Husbandry,
(Rindrapost Eradiction Scheme), Chevella,
Ranga Reddy District,
owner of the Tempo Trax Jeep No.AP-28-C-9590.

2. Government of Andhra Pradesh,
represented by its Director,
Animal Husbandry, Hyderabad.

... Respondents/Respondents

JUDGMENT

1. This memorandum of Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 (for short, 'the MV Act') assailing the award passed by the Motor Accident Claims Tribunal (IV Additional District Judge) (Fast Track Court) at Nizamabad (for short, 'the Tribunal') in MVOP No.1411 of 2001 dated 08.12.2005.



2. Appellant is the petitioner and respondents are the respondents before the Tribunal.

3. Appellant - petitioner has filed petition under Section 166(i)(a) of the MV Act read with Rule 455 of Andhra Pradesh Motor Vehicles Rules, 1989 claiming compensation of Rs.3,00,000/- with interest at the rate of 24% per annum in a motor vehicle accident caused on 01.08.2001.

4.1 On 01.08.2001 at about 11.30 a.m. while the appellant - petitioner was traveling on a motorcycle bearing No.AP-25-A-575 as a pillion rider from Degloor towards Nizamabad side and another person by name Sayed Mazhar Hashmi was driving the said motorcycle on the side of the road cautiously, when they reached in front of Taj Dhaba Hotel, Arsapally Sivar, Nizamabad on Bodhan to Nizamabad road, at the same time a tempo trax bearing No.AP-28-C-9590 drove by its driver in a rash and negligent manner with high speed came from opposite direction and dashed the motorcycle. Due to the impact appellant - petitioner and the driver of the motorcycle fell down and the front wheel of the tempo trax jeep ran over on the appellant - petitioner. Appellant - petitioner received Right femur fracture, head injury, right leg fracture at two places, both side chest bones fractured, both hands injured and other parts of the body also received injuries.



Appellant - petitioner was first admitted at Government Hospital, Nizamabad, where he was treated by Dr.Dhoom Singh, Orthopaedic surgeon, his right leg was operated and rod is inserted. Thereafter he was referred to Hyderabad, but he took treatment at Gurugovind Singh Hospital, Nanded.

4.2 Appellant - petitioner has incurred Rs.1,50,000/- towards hospital expenditure and the motorcycle is completely damaged. The appellant - petitioner was aged about 30 years, doing cloth business and earning Rs.10,000/- per month as on the date of accident i.e., 01.08.2001.

5. Respondent Nos.1 and 2 remained ex-parte before the Tribunal.

6. The learned Tribunal has framed the following points for consideration:

1. Whether the accident occurred due to rash and negligent driving of the Tempo Trax Bearing No.AP-28-C-9590 by its driver?
2. Whether the petitioner is entitled for compensation. If so, to what amount and against which of the respondents?
3. To what relief?

7. Appellant - petitioner is examined as PW1, examined PW2 - Dr.Dhoom Singh and got marked Exs.A1 to A10.

8. The learned Tribunal after going through the evidence adduced by the appellant – petitioner coupled with the documents marked thereon has awarded an amount of Rs.40,000/- with proportionate costs and interest at the rate of 7.5% per annum from the date of petition till the date of deposit holding that the respondents Nos.1 and 2 are jointly and severally liable to pay the compensation.

9. Learned counsel for the appellant – petitioner submits that the Tribunal did not properly consider the evidence of PW1 and PW2 and the exhibits marked thereon. The Tribunal ought to have seen that the appellant – petitioner has become 60% disabled, which is deposed by PW2 and the Tribunal also erred in not considering the disability certificate on the ground that the disability certificate has to be issued only by the District Medical Board. The Tribunal ought to have seen that the appellant – petitioner had received grievous injuries all over the body, lacerated wounds and fracture shaft of right femur. The Tribunal failed to see that the appellant – petitioner has taken treatment in the hospital for five days as in-patient. The Tribunal ought to have granted a sum of Rs.3,00,000/- as prayed for by the appellant – petitioner and interest prevailing on the date of accident [01.09.2001] was more than 12% per annum but the Tribunal has



granted interest at the rate of 7.5% per annum and prayed to enhance the amount.

10. Notice to respondent No.1 served.

11. Learned counsel for respondent No.2 submits that the learned Tribunal has properly appreciated the facts of the case and awarded just compensation to the appellant – petitioner and the learned Tribunal has rightly discarded the evidence of PW2 with regard to 60% disability. Counsel to substantiate his contentions relied on (i) T.J.Parameshwarappa Vs. The Branch Manager, New India Assurance Company Limited and Others¹ and (ii) United India Insurance Company Limited Vs. Mohd. Khaj Rasool Sayyed and Others².

12. Learned counsel for the appellant – petitioner has filed calculation memo in support of his contentions.

13. Heard learned counsel on record and perused the material.

14. Now the points for consideration are:

1. Whether the learned Tribunal has awarded just compensation to the appellant – petitioner, if so?
2. Whether awarded passed by the Tribunal in O.P.NO.1411 of 2001, dated 08.12.2005 suffers from any perversity or illegality, if so does it requires interference of this Court?

¹ MANU/SC/1510/2022

² MANU/AP/0517/2003



15. The amount claimed by the appellant - petitioner in O.P.No.1411 of 2001 under different heads is as under:

	FOR SPECIAL DAMAGES	AMOUNT
A	For loss of earnings	15,80,000/-
B	Transport to hospital, medical expenditure and extra nourishment	1,50,000/-
	FOR GENERAL DAMAGES	
A	Compensation for pain and suffering	50,000/-
B	Compensation for loss of permanent disability	50,000/-
	Total	18,30,000/-

But the appellant - petitioner restricted his claim for Rs.3,00,000/- (Rupees Three Lakhs only).

16. Appellant - petitioner has questioned the quantum in the appeal and there is no dispute with regard to the manner in which the accident has occurred.

17. The evidence of PW2 - Dr.Dhoom Singh is that on 01.08.2001 he examined the appellant - petitioner in government hospital with IP.No.10698. As per X-ray there is a communitied fracture of right femur and same side extra capsular fracture right femur. Necessary medical treatment is given and blood investigation is also done. Blood transfusion is administered to the patient thereafter referred to higher hospital i.e., Gandhi Hospital,

Secunderabad on 04.08.2001. Ex.C1 is the case sheet and Ex.C2 are the X-rays belonging to PW1. Injuries mentioned in Ex.A3 - injury certificate is corresponding to Ex.A5 - discharge ticket issued by Government Hospital, Nizamabad. PW2 examined the patient at the time of his deposition and found three inches shortening with malunited fracture of the femur and stiffness of the right knee joint having difficulty in squatting with cross limb which requires support of the stick, the disability is about 60% of permanent and partial disability. He advised X-ray at the time of examining the patient. It is noteworthy to mention here that PW2 is examined on commission.

18. Ex.A3 - injury certificate goes to show that the appellant - petitioner has sustained fracture of shaft right femur. Ex.C1 - case sheet of the appellant - petitioner issued by Government Hospital, Nizamabad also shows that the appellant - petitioner has sustained comminuted fracture of shaft right femur. The evidence of the appellant - petitioner with that of PW2 are in consonance with Exs.A3 and C1.

19. The learned Tribunal has observed in paragraph Nos.23 and 24 while awarding compensation, which reads as under:

"23. The petitioner stated that he spend Rs.4,00,000/- (Rupees four lakhs only) towards medical expenses.. But he has not filed any document before the court that he spend Rs. 4,00,000/- (Rupees four lakhs only). The



petitioner also not filed any document before this Court to show that he is earning Rs.3,000/- (Rupees three thousand only) per month. Therefore the petitioner failed to prove that he spend Rs.4,00,000/- (Rupees four lakhs only) towards medical expenses and he sustained loss of earnings due to disability.

24. The remaining portion the petitioner sustained one grievous injury and one simple injury. As per the table the petitioner is entitled for Rs.5,000/- (Rupees five thousand only) towards grievous injury and Rs.1,000/- (Rupees One thousand only) for the simple injury. As per Ex.C1 the petitioner was treated in

the Govt. hospital for 4 days and treated for comminuted fracture right shaft femur. Therefore the petitioner has to suffer lot of pain. Therefore the petitioner is entitled for Rs.15,000/- (Rupees fifteen thousand only) towards pain and suffering. The petitioner got filed the bills for Rs.160/- The petitioner has filed the bills under Ex.A6 out of which one is the medical bill and another 2 are belongs to bills issued by the HP petrol bunk policy another one is belongs to jewellery and another bill for parking charges. The petitioner also filed some X-rays and pathology reports. But he has not filed any document before the Court. Therefore the petitioner is entitled for Rs.10,000/- (Rupees ten thousand only) towards medical expenses, in all The petitioner has to take rest for at least 5 months for the fracture. Therefore he is entitled for Rs.7,500/- (Rupees Seven thousand five hundred only) towards loss of estate. The petitioner is also entitled for Rs. 1,500/- (Rupees One thousand five hundred only) towards transportation and extra nourishment."

20.1 In T.J.Parameshwarappa¹ the Supreme Court has summarize the principle with regard to permanent disability, which reads as under:

"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 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."

20.2 In Mohd. Khaj Rasool Sayyed² the High Court observed that it is necessary to have proper medical evidence on record for assessing the grievousness of the injuries and also the extent of disability in an inquiry for compensation.

21.1 The appellant - petitioner has not filed any disability certificate to show that he is 60% disabled. The learned Tribunal has rightly rejected the evidence of PW2 with regard to the disability as there is no documentary evidence to show that appellant - petitioner has sustained 60% disability in the road accident.

21.2 Appellant - petitioner stated in the claim petition that his monthly income is Rs.10,000/- by doing cloth business, the same is taken into consideration and he has taken rest for at least five



months. Hence he is entitled for loss of earnings at the rate of Rs.10,000/- per month for a period of five months, which comes to Rs.50,000/- [10,000 x 5]. The appellant - petitioner is also entitled for transportation, extra nourishment and miscellaneous expenses to an extent of Rs.50,000/-.

22.1 The calculation arrived by this Court is as under:

Sl.No.	Name of the head	Compensation awarded by this Court
1.	Grievous injury	Rs.5,000/-
2.	Simple injuries	Rs.1,000/-
3.	Pain and suffering	Rs.50,000/-
4.	Loss of earnings (Rs.10,000/- per month)	Rs.50,000/- (For five months)
5.	Transportation and extra nourishment	Rs.50,000/-
	Total	Rs.1,56,000/-

22.2 The learned Tribunal has awarded interest at the rate of 7.5% per annum, which has to be enhanced to 9% as per the decision in the case of Anjali and Others vs. Lokendra Rathod and others³.

23. In the result, MACMA.No.3791 of 2008 is partly allowed and the compensation awarded by the Tribunal is enhanced as under:

³ 2022 SCC OnLine SC 1683



- a) The impugned award dated 08.12.2005, passed in O.P.No.1411 of 2001 stands modified.
- b) The compensation awarded by the Tribunal i.e., Rs.40,000/- is enhanced to Rs.1,56,000/- together with interest at the rate of 9% per annum from the date of filing the petition till payment.
- c) The respondent Nos.1 and 2 are hereby directed to deposit the awarded amount jointly and severally with interest and costs less the amount already paid if any within a period of 60 days from the date of receipt of a copy of this judgment.
- d) Appellant – petitioner is permitted to withdraw the entire amount with costs and interest thereon without furnishing security.

As a sequel miscellaneous application/s pending if any shall stand closed. No costs.

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Sd/- M. JAWAHAR REDDY
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Chairman, Motor Accident Claims Tribunal-Cum-IV Additional District Judge (Fast Track Court) at Nizamabad.
2. One CC to Sri P. Radhive Reddy, Advocate [OPUC]
3. Two CCs to (GP for Services), GP for Animal Husbandry, High Court for the State of Telangana. [OUT]
4. Two CD Copies

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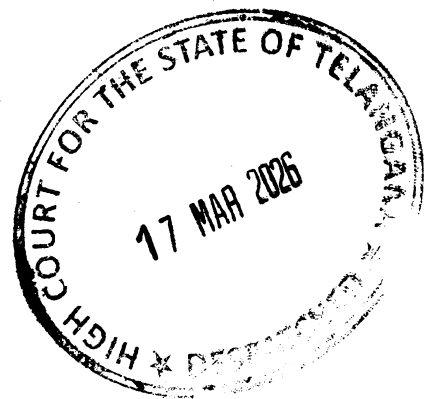


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HIGH COURT

BRMR, J

DATED: 05/12/2025



JUDGMENT+DECREE

MACMA.No.3791 of 2008

**PARTLY ALLOWED
WITHOUT COSTS**

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MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 3791 OF 2008

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...RESPONDENTS/RESPONDENTS

Appeal filed under Section 173 of Motor Vehicles Act against the order and decree in M.V.O.P.No. 1411 of 2001 dated 8/12/2005 on the file of the Court of the Chairman, Motor Accident Claims Tribunal-Cum-IV Additional District Judge (Fast Track Court) at Nizamabad.

This appeal coming on for hearing and upon perusing the grounds of appeal, the Judgment and Decree of the Court below and the material papers in the case and upon hearing the arguments of Sri P. Radhive Reddy, Advocate for the appellant and GP for Services for the Respondents.

This Court doth Order and Decree as follows:

1. That the Motor Accident Civil Miscellaneous Appeal be and hereby is partly allowed by enhancing the compensation amount from Rs 40,000 to Rs 1,56,000 and also enhancing the rate of interest from 7.5% per annum to 9% per annum from the date of filing the petition till payment;



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2. That the respondent No 1 & 2 be and hereby are directed to deposit the awarded amount jointly and severally with interest and costs less the amount already paid If any within a period of 60 days from the date of receipt of a copy of this judgment;
3. That the Appellant-Petitioner be and hereby is permitted to withdraw the entire amount with costs and interest thereon without furnishing security.
4. That save as aforesaid, the decree of the Tribunal shall stand confirmed in all other aspects; and
5. That there shall be no order as to costs in this appeal.

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Sd/- M. JAWAHAR REDDY
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The Chairman, Motor Accident Claims Tribunal-Cum IV Additional District Judge (Fast Track Court) at Nizamabad.
2. Two CD Copies

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HIGH COURT

BRMR, J

DATED: 05/12/2025

DECREE

MACMA.No.3791 of 2008

**PARTLY ALLOWED
WITHOUT COSTS**

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