

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

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M.A.C.M.A.No.144 of 2013

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Between:

M.Anjaneyulu

.. Appellant

And

G.Venkatesh and another

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 07.08.2015

SUBMITTED FOR APPROVAL:

**THE HON'BLE SRI JUSTICE T. SUNIL
CHOWDARY**

1. Whether Reporters of Local newspapers
may be allowed to see the Judgment? Yes/No
2. Whether the copies of judgment may be Yes/No
marked to Law Reporters/Journals
3. Whether Their Lordship wish to
see the fair copy of the Judgment? Yes/No

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

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M.A.C.M.A.No.144 of 2013

JUDGMENT:

This appeal is filed by the petitioner-claimant challenging the

judgment and award, dated 29.04.2011 passed in M.V.O.P.No.2967 of 2008 on the file of the XIII Additional Chief Judge (FTC), City Civil Court, Hyderabad, wherein the Tribunal awarded compensation of Rs.80,000/- against the claim of Rs.3,00,000/- with interest @ 6% per annum from the date of petition till the date of deposit.

2. For the sake of convenience, the parties are hereinafter referred to as they are arrayed in the O.P. before the Tribunal.

3. The facts leading to file the present appeal, in brief, are as follows:

On 28.01.2007 at about 4.00 a.m. M.Anjaneyulu, the petitioner, along with his parents boarded the zeep bearing No.AP 7X 1773 at Jupalli to go to Maisigandi temple. After crossing of Ragaipalli village, the driver of the DCM van bearing No.AP 22 V 0615 had driven the van in a rash and negligent manner and dashed the zeep. The accident occurred due to the rash and negligent driving of the driver of the DCM van against whom the Station House Officer, Amangal Police Station, registered a case in Crime No.17 of 2007 under Sections 304(A) and 337 IPC. Due to the accident, the petitioner sustained injuries on various parts of the body and took treatment as in-patient in Super Speciality Neuro Hospital, Kachiguda, Hyderabad. The parents of the petitioner spent nearly Rs.1,50,000/- towards medicines and treatment. By the time of accident, the petitioner was aged about 13 years. The DCM van bearing No.AP 22 V 0615, which belongs to the first respondent was insured with the second respondent company with effect from 30.11.2006 to 30.12.2007 vide policy No.311800/2007/11289. Therefore, the respondents 1 and 2 are jointly and severally liable to pay compensation to the petitioner.

4. The first respondent remained *ex parte*. The second respondent filed counter denying all the material averments made in the petition including the manner of the accident and the nature of injuries sustained by the petitioner. The accident occurred due to the rash and negligent driving of the driver of the zeep and there was no negligence

on the part of the driver of the DCM van bearing No.AP 22 V 0615. The amount of compensation claimed by the petitioner under various heads is highly excessive and exorbitant. This respondent is not liable to pay compensation to the petitioner, unless the petitioner proves that the driver of the DCM van was having valid and affective driving licence at the time of accident. Hence, the petition may be dismissed.

5. Basing on the above pleadings, the Tribunal framed the following issues:

1. Whether the petitioner resulting in injuries to the petitioner occurred owing to the rash and negligent driving of the driver of DCM Van bearing No.AP 22 V 0615?
2. Whether the petitioner is entitled for compensation, and if so, to what amount and from whom?
3. To what relief?

6. During the course of trial, on behalf of the petitioners, PWs.1 and 2 were examined and Exs.A.1 to A.7 were marked. On behalf of the respondents, no oral or documentary evidence was adduced.

7. On appraising oral and documentary evidence and other material available on record, the Tribunal arrived at a conclusion that the accident occurred due to the rash and negligent driving of the driver of the DCM van bearing No.AP 22 V 0615, which resulted injuries to the petitioner and awarded compensation of Rs.80,000/- with interest at 6% per annum from the date of petition till the date of realisation.

8. Feeling aggrieved by the judgment and award passed by the Tribunal, the petitioner-claimant preferred the present appeal.

9. The contention of the learned counsel for the petitioner-appellant is two fold:

1. The Tribunal has not awarded just and reasonable compensation.
2. The Tribunal ought to have awarded the interest at the rate of 12% per annum from the date of petition till the date of realisation.

10. Per contra, learned counsel for the second respondent submitted that the Tribunal rightly considered the oral and documentary evidence available on record and awarded just and reasonable compensation. She further submitted that the petitioner sustained only one grievous injury. She further submitted that the Tribunal rightly awarded interest at the rate of 6% per annum taking the prevailing market rate of interest into consideration.

11. Basing on the above rival contentions, the points that arise for consideration in this appeal are as follows:

1. Whether the Tribunal has awarded just and reasonable compensation or not?
2. Whether the Tribunal is justified in granting interest at 6% per annum?

12. **POINT No.1:** As per the findings of the Tribunal, the accident occurred due to the rash and negligent driving of the driver of the DCM van bearing No.AP 22V 0615, which resulted injuries to the petitioner. For one reason or other, the second respondent did not choose to file appeal or cross-objections challenging the finding of the Tribunal on issue No.1. Therefore, the finding of the Tribunal on issue No.1 became final. Having regard to the facts and circumstances of the case, I am of the considered view that the accident occurred due to the rash and negligent driving of the driver of the DCM van, which resulted injuries to the petitioner. As per the recitals of Ex.A3 certified copy of medical report, Ex.A5 discharge sheet and Ex.A6 X-ray film, the petitioner sustained grievous injury on forehead. The medical record produced before the Tribunal clinchingly establishes that the petitioner has not sustained fracture. Taking into consideration the nature of injury sustained by the petitioner, the Tribunal awarded an amount of Rs.5,000/- for grievous injury and Rs.25,000/- towards pain and suffering. The petitioner produced medical bills worth of Rs.46,500/-. The fact remains that the petitioner took treatment as in-patient in

Super Speciality Hospital, Hyderabad. The Tribunal rightly awarded an amount of Rs.46,500/- towards medicines and treatment by placing reliance on Ex.A4 medical bills. The Tribunal also awarded an amount of Rs.3,500/- towards transportation charges. The Tribunal awarded just and reasonable compensation under the above referred heads. It is a known fact normally the doctors advice the patients to take special diet for uniting of fractures and for speedy recovery of the injuries. For one reason or other, the Tribunal has not awarded any amount towards extra nourishment. Taking into consideration the age of the petitioner, I am inclined to award an amount of Rs.5,000/- towards extra nourishment. The amount of compensation awarded under various heads is as follows:

One Grievous Injury	: Rs. 5,000/-
Pain and Suffering	: Rs. 25,000/-
Medicines and treatment	: Rs. 46,500/-
Transport charges	: Rs. 3,500/-
Extra nourishment	: Rs. 5,000/-
Total amount of compensation	: Rs. 85,000/-.

13. The amount of compensation awarded under various heads is just and reasonable to meet the ends of justice.

14. **Point No.2:-** As rightly pointed out by the learned counsel for the petitioner, the Tribunal awarded interest at 6% per annum only. While awarding the rate of interest, the Tribunal has to take into consideration the prevailing interest rate as well as the guidelines issued by the Reserve Bank of India from time to time. The petition was filed in the year 2008 and the same was disposed of in the year 2011. Taking into consideration the facts and circumstances of the case, I am of the considered view that the Tribunal has not awarded reasonable rate of interest. Hence, this Court is inclined to award interest at 7.5% per annum on the compensation amount from the date of petition till the date of realisation.

15. Accordingly, M.A.C.M.A. is partly allowed enhancing the compensation from Rs.80,000/- to Rs.85,000/- with interest at 7.5% per annum from the date of petition till the date of realisation on the enhanced amount of compensation. No costs.

16. Consequently, miscellaneous petitions pending if any in this appeal, shall stand closed.

T.SUNIL CHOWDARY, J

07th August, 2015

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