

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

WEDNESDAY THE THIRD DAY OF DECEMBER
TWO THOUSAND AND FIFTEEN

PRESENT
HONOURABLE SRI JUSTICE S.V. BHATT

MACMA.NO. 1318 OF 2005

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Between:

Dumala Laxmi ... Appellant

V/s.

Ch.Buchibabai & Anr. ... Respondents

Counsel for the appellant : Sri M. Rajamalla Reddy

Counsel for the Respondents: Sri C.Prakash Reddy

The Court made the following: [order follows]

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JUDGMENT :
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Heard Sri Sheri Prasad representing Sri M.Raja Malla Reddy, learned counsel for the appellant and Sri C.Prakash Reddy, learned Standing Counsel for the second respondent-New India Assurance Company Limited.

2. The petitioner in MVOP.No. 218 of 2002 in the Court of Motor Accident Claims Tribunal-cum-V-Additional District Judge, Nizamabad is the appellant.

3. The Civil Miscellaneous Appeal is filed questioning the award dated 15/2/2005 whereunder as against the claim of Rs.2,00,000/- the Tribunal awarded a sum of Rs.10,000/-.

4. Circumstances relevant for the disposal of the appeal are as follows:

On 11/12/2001 the appellant was travelling in Auto bearing No. AP-25-T-282 from Nizamabad to Dichpally. When the said Auto reached Uppala Mallaiah Petrol Pump at Vinayakanagar it met with an accident and turtled. It is the case of the appellant that the accident is on account of rash and negligent driving of the auto by the driver. The appellant claims that she has suffered grievous

injuries, suffered broken ribs of chest, simple injuries on head etc.

The appellant under various heads claimed the following amounts:

	FOR SPECIAL DAMAGES:	Rupees
A	Loss of earnings	2,00,000=00
B	Pain and suffering	1,00,000=00
C	Transport to hospital	1.000=00
D	Extra nourishment	10,000=00
E	Medical expenditure	30,000=00
	FOR GENERAL DAMAGES:	
A	Compensation for pain and suffering and for shock and mental agony	2,00,000=00
B	Compensation under no fault liability	50,000=00
C	Compensation for continuing or permanent disability and loss of pleasure and amenities of life	2,00,000=00
D	Compensation for the loss of future earning power	2,00,000=00
	Total	9,01,500=00

However, the appellant restricted her claim to Rs.2,00,000=00.

The Auto involved in the accident is insured with the second respondent.

5. The second respondent opposed the claim both in fact and law. For the purpose of disposal of the CMA the averments necessary for consideration are as follows:

In any case amount of compensation claimed by the petitioner under various heads as well as lumpsum compensation

of Rs.2,00,000/- [Rs.Two lakhs only] is very high, excessive, arbitrary, against law and out of all proportions. Hence, in the above circumstances, it prays to dismiss the petition with costs.

6. The Tribunal framed the following issues for consideration:

- i) whether the accident has taken place due to rash and negligent driving of the vehicle bearing No.AP-25-U-282 by its driver?
- ii) whether the petitioner is entitled for compensation? If so, to what amount and against whom ?
- iii) To what relief ?

7. At the outset, it is noted that the findings on issue No.1 recorded by the Tribunal are that the accident of vehicle bearing No.AP-25-U-282 is on account of rash and negligent driving of the driver. On issue No.2, the Tribunal considered documentary evidence from Exs.A-5 to A-21 and granted a sum of Rs.10,000/-. Hence, the appeal.

8. Learned counsel for appellant vehemently contends that the Tribunal did not consider the documentary evidence in right perspective and failed to award just and proper compensation to the appellant. According to learned counsel for the appellant, the Tribunal may be on account of the certificate issued under Ex.A-6

did not objectively examine the other evidence available on record and thus the appellant has suffered enormous prejudice in determination of compensation. To bring home the point that the appellant suffered grievous injuries, learned counsel draws the attention of this Court to Ex.A5, Ex.A8, Ex.A16 and Ex.A19 to A-21 and contends that the appellant is entitled for Rs.1,90,000/- as compensation for the injuries suffered by the appellant, pain and suffering, extra-nourishment, medical expenses etc.

9. Sri C.Prakash Reddy, learned Standing Counsel for second respondent-Insurance Company submits that the Tribunal has considered each one of the exhibits, nature of injuries suffered by the appellant and having regard to the effort of appellant to exaggerate either the injury or the claim, the appellant has relied upon the medical certificate issued by one Dr.T.Narsing Rao, whose certificates are as a matter of course excluded from consideration for any purpose. He submits that the case does not warrant grant of additional compensation and secondly submits that the case of appellant is required to be strictly considered in the light of what is borne out in Ex.A5, Ex.A17, Ex.A18 and Ex.A-19 and contends that the award of compensation is just and

proper.

10. Now the point for consideration is “whether the appellant is entitled for enhancement of compensation ? If so, to what extent ?”

11. On 11/12/2001 the accident occurred. The appellant was hospitalized from 11/12/2001 upto 20/12/2001. Ex.A5 refers to the injuries on the skull and chest. Ex.A8 to A-15 are the cash bills for purchase of medicines or paying amount for clinical examinations by the appellant. On 19/12/2001 the appellant has got CT Scan of brain done at CT Scan Private Limited, Nizamabad. The report, no doubt concludes that the CT scan presents normalcy of skull. The appellant in her deposition as PW-1 has stated about the injuries, treatment taken at Government Hospital and the period during which she has suffered on account of the rib fractures. The Tribunal while assessing the compensation payable to appellant has taken a very very conservative view even on admitted injuries. In my view, granting of Rs.10,000/- compensation is not commensurate with the injuries suffered by the appellant. The point is answered accordingly.

Details of Injuries:

1) Grievous injury to skull and brain [soft tissue]

2) Fracture injury of 2nd, 3rd and 4th ribs.

12. For the injuries caused to ribs, I am of the view that a reasonable compensation of Rs.10,000/- to each one of the injuries can be granted. Therefore for [3] three injuries Rs.10,000/- x 3 = Rs.30,000/-. The appellant was hospitalized from 11/12/2001 to 20/12/2001 and discharged. Towards pain and suffering, a reasonable sum of Rs.10,000/- can be granted. For purchase of medicines, transportation and extra-nourishment a sum of Rs.10,000/- can be granted for the appellant being a lady must be dependant on the family and would have taken full assistance physical and financial during the recovery period. Accordingly the total compensation is determined at Rs.50,000/-. The appeal is allowed to the extent indicated above. The appellant is entitled to interest @ 7.5% p.a. on the enhanced compensation from the date of petition till the date of deposit. No order as to costs.

13. As a sequel, miscellaneous petitions if any, pending in this MACMA shall stand closed.

JUSTICE S.V. BHATT

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