

**HON'BLE SRI JUSTICE A. SHANKAR NARAYANA**

**MACMA No. 114 of 2006**

**Judgment:**

Dissatisfied with the amount of Rs.59,000/- granted as compensation by the order, dated 29.07.2005, in OP No. 33 of 2002 on the file of the Chairman, Motor Accidents Claims Tribunal-cum—III Additional District Judge (FTC), Mahabubnagar, at Gadwal (for short 'the Tribunal'), as against the claim of Rs.2,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'), the instant appeal is preferred by the petitioner seeking enhancement of compensation.

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed in the Original Petition before the Tribunal.

3. Coming to the facts, that on 27.08.2001 at about 9.45 AM, while the petitioner was proceeding on his motor cycle to Mahabubnagar and reached the limits of Kumara Lingampally, an RTC bus bearing registration No.AP-10Z-80 coming from Damagnapur and proceeding towards Rampur, since driven at high speed in a rash and negligent manner, came and dashed the motor cycle, due to which, the petitioner sustained injuries. He was shifted to Government Hospital, Mahabubnagar, from there he was referred to Nizams Institute of Medical Sciences, Hyderabad, wherein he was treated as inpatient for one week. He states that he spent Rs.80,000/- for his treatment, he is the owner of rice-mill as well as running kirana shop earning Rs.7,000/- per month and due to the accident, he was completely bed-ridden and incurred huge expenses. Therefore, sought compensation of Rs.2,00,000/- from the respondent – Corporation.

4. The respondent – Corporation opposed the claim by raising various pleas attributing rash and negligent driving on the part of the petitioner himself and

requesting the Court to exonerate it.

5. The Tribunal framed three issues about the responsibility for the accident. During enquiry, the petitioner examined himself as PW.1, besides examining Dr. J. Vijaya Kanth as PW.2 and marked Exs.A1 to A7. No evidence was let in, either oral or documentary by the respondent – Corporation.

6. On appraisal of evidence, the Tribunal, on issue No.1, held that due to rash and negligent driving of the driver of the RTC bus the accident had occurred and, thus, held it in favour of the petitioner. On issue No.2, taking into consideration the evidence of PW.2, who has spoken about the disability at 10%, and considering the nature of injuries as reflected from Ex.A2 which are; an abrasion over right temporal region – simple in nature and crush injury and muscle of right hand and over dorsum right wrist exposed, taken the age of the petitioner as 25 years and the income at Rs.10,000/- pr annum, applied the multiplier '17' and arrived at Rs.17,000/- towards loss of earning capacity. Besides the same, the Tribunal granted a sum of Rs.42,000/- towards medical expenses and, thus, a total sum of Rs.59,000/- was awarded as compensation with interest at 6% p.a.

7. Heard Sri K. Venkatesh Gupta, learned counsel for the appellant, and Sri N. Vasudeva Reddy, learned Standing Counsel for the respondent – Corporation.

8. Perused the order and the evidence let in by the petitioner. As seen from the order as well as the documents exhibited by the petitioner, no documents have been exhibited in the direction of proving the income of Rs.7,000/- per month as claimed by the petitioner. Therefore, the Tribunal appears to have taken Rs.10,000/- per annum towards the income of the petitioner. In fact, in Ex.A1 – attested true copy of FIR, even the occupation of the petitioner is not mentioned, but, his age was shown as 23 years. However, fixing the annual income at Rs.10,000/- appears to be on lower side, as even keeping in view, by the II-Schedule to Section 163-A of the Act, notional income at Rs.15,000/- has been provided. Thus, when the notional income is taken at Rs.15,000/- per annum and since the age of the petitioner was 25 years, the relevant multiplier '18' is applied as per the decision of the Hon'ble Apex Court in **Sarla Verma v. Delhi Transport Corporation**, the loss of earning capacity works

out to Rs.27,000/-. The medical expenses at Rs.42,000/- granted by the Tribunal is confirmed. The Tribunal has not granted any amount towards other non-pecuniary heads. Towards extra nourishment, keeping in view, the petitioner has undergone treatment as inpatient at NIMS, a sum of Rs.5,000/- is awarded. This apart, towards transportation and attendant charges a sum of Rs.10,000/- is awarded. Thus, the petitioner is totally entitled to Rs.84,000/- as against Rs.59,000/- granted by the Tribunal. Concerning the interest, the Tribunal granted at 6% p.a., but the petitioner is entitled to interest at 7.5% p.a., on the total amount of Rs.84,000/-. Therefore, the interest at 7.5% p.a., is granted enhancing it from 6% p.a., as per the decision of the Hon'ble Apex Court in **Rajesh and others v. Rajbir Singh and others**.

9. Accordingly, the appeal is allowed in part modifying the impugned award passed by the Tribunal, by enhancing the compensation as well as the rate of interest as stated supra. There shall be no order as to costs.

10. As a sequel thereto, Miscellaneous Applications, if any, pending in this appeal shall stand closed.

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**A. SHANKAR NARAYANA, J**

Date: 24.03.2015

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