

**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.2095 of 2005

Between:

T.K.Chandrasekhar.

....Appellant

and

S.M.Palani and another.

....Respondents

JUDGMENT PRONOUNCED ON : 18.12.2015

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

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

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A.No.2095 of 2005

JUDGMENT:

The petitioner in M.V.O.P.No.230 of 1999 on the file of the Motor Accident Claims Tribunal, Chittoor, is the appellant herein. He filed the claim petition claiming a compensation of Rs.3,00,000/- for the injuries sustained by him in a motor accident that occurred on 11.03.1999 at about 12.45 pm on Chittoor-Vellore main road near Kothapalle, when he along with his friend – Sivayya, was proceeding towards Vellore side from Chittoor on a scooter bearing No.AP 03 4502. The accident took place when the driver of the lorry bearing No.TN 21 B 6926 came from opposite direction in a rash and negligent manner and hit the scooter, as

a result of which the claimant and the driver of the scooter fell down and sustained bleeding injuries. The claimant was admitted in Government Hospital, Chittoor, and after taking first aid, he was moved to CMC Hospital, Vellore, for better treatment. His right leg was amputated up to knee joint in CMC Hospital, Vellore. He also sustained fracture to right tibia, besides sustaining two injuries. He was aged about 48 years and was working in a Primary Health Centre.

The owner of the vehicle remained *ex parte* and the case was contested by the insurance company. On the basis of the pleadings, the Tribunal framed the following issues:

- “1. Whether the accident was caused due to the composite negligence of the petitioner in driving the scooter bearing No.AP 03 4582 and the driver of the lorry bearing No.TN 21 B 6926 or any one of them?
2. Whether the petition is bad for non-joinder of necessary parties?
3. Whether the petitioner is entitled for any compensation if so, to what quantum and from whom?”

The claimant examined himself as P.W.1 and also examined the driver of the scooter as P.W.2. The doctor was examined as P.W.3. Exs.A1 to A6 were marked on his behalf.

On the basis of the oral and documentary evidence, the Tribunal came to the conclusion that the accident occurred due to rash and negligent driving of the lorry by its driver.

With regard to the compensation, there is no dispute that the claimant suffered fracture of right leg and femur and amputation of right leg was done on 23.03.1999. Ex.A3 – wound certificate, was issued by the CMC Hospital stating that the approximate percentage of disability was around 60%. P.W.3 deposed that the claimant was admitted on 11.03.1999 and he was discharged on 17.03.1999, but admitted on

22.03.1999. He stated that the right leg was amputated up to knee joint and he cannot attend to his normal duties though he can walk. P.W.1 stated that he was drawing an amount of Rs.8,500/- per month, and as on the date of the accident his salary was Rs.5,500/- per month. Though he stated that he lost promotion chances, there is no evidence to that effect. The Tribunal, on the basis of the evidence, came to the conclusion that the claimant did not lose any income due to the accident. However, for the loss of amenities, the Tribunal awarded Rs.20,000/- and when the medical expenditure was stated as Rs.72,000/- to Rs.80,000/-, a sum of Rs.15,000/- was awarded. The loss of future income was assessed at Rs.1,34,400/- and an amount of Rs.15,000/- was awarded towards pain, suffering and injury. Seeking enhancement of the said amount, the present appeal is filed.

The facts of the case are not disputed. Due to amputation, the claimant cannot attend to his normal duties as a normal person and, hence, the loss of amenities assessed at Rs.20,000/- should be enhanced to Rs.50,000/-. The claimant was admitted in the hospital in the first spell from 11.03.1999 to 17.03.1999 and thereafter from 22.03.1999 to 18.04.1999. He was there in the hospital for nearly 45 days. Somebody must have attended on him. Though he claimed an amount of Rs.72,000/-, an amount of Rs.15,000/- was awarded towards medical treatment. In view of the attendant charges and extra nourishment, the said amount needs enhancement to Rs.50,000/-. Since the loss of future income was calculated on the basis of application of multiplier, no interference with the said amount is required. The amount awarded towards pain and suffering also needs enhancement from Rs.15,000/- to Rs.30,000/-. Accordingly, the award of the Tribunal is enhanced as follows:

<u>Heads</u>	<u>Award of Tribunal</u> Rs.	<u>Enhancement</u> Rs.
Loss of amenities	20,000.00	50,000.00

Medical expenses (including attendant charges and extra nourishment)	15,000.00	50,000.00
Loss of future income	1,34,400.00	1,34,400.00
Pain, suffering and injury	15,000.00	30,000.00
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Total	1,84,400.00	2,64,400.00
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In all, the total amount of compensation of Rs.2,64,400/- is awarded in the place of Rs.1,84,400/- awarded by the Tribunal by its award dated 27.04.2005 and the enhanced amount shall carry interest at 9% per annum from the date of the petition till the date of realization.

The appeal is, accordingly, partly allowed. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

18.12.2015
vs