

**THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO**

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**M.A.C.M.A.No.1202 of 2005**

**JUDGMENT:**

This appeal is preferred by the injured, who filed O.P.No.614 of 2002, seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal (District Judge), Karimnagar, by award dated 15.02.2005.

The claimant before the Tribunal filed the petition seeking compensation of Rs.6,00,000/- for the injuries sustained by him in a motor accident that occurred on 30.05.2002. On that day a lorry bearing registration No.MP 14 G 9475 hit the motor cycle from behind on which the claimant was travelling as a pillion rider. He sustained injuries over legs, hands, thigh etc. He was treated as inpatient in Nizam's Institute of Medical Sciences, Hyderabad, from 30.05.2002 to 18.06.2002 and thereafter from 05.07.2002 to 15.07.2002 and he was operated upon on different occasions. At the time of the accident the claimant was studying 9<sup>th</sup> class. The Tribunal, on evidence, felt that the accident occurred due to rash and negligent driving of the driver of the lorry bearing No.MP 14 G 9475.

With regard to the quantum of compensation, the Tribunal took into consideration various decisions of the Courts as the claimant was a minor at that time. The Tribunal recorded a finding that as per Exs.A11 to A17, the claimant was a meritorious student. The Tribunal also noted that P.W.4, who was the Doctor, stated that the patient had lost skin of distal of 3<sup>rd</sup> of arm elbow right forearm up to wrist and dorsal skin of forearm 1/3<sup>rd</sup> and his right hand and fingers would allow the patient to do useful work but they cannot be compared with a normal person. The Tribunal came to the conclusion that the claimant sustained 50% permanent partial disability.

Learned Counsel for the appellant, by relying on the judgments of the Supreme Court in **V.Mekala v. M.Malathi**, submits that the notional income of the appellant should have been taken into consideration and the compensation should have been calculated. He also relied on a Larger Bench decision of this Court in **Adam Indur Muttemma v. Rathod Reddia**, which held that the Tribunals can award compensation more than the amount claimed.

In view of the above decisions, it is necessary for this Court to recalculate the amount of compensation that can be paid as a just compensation to the appellant. The amount of income cannot be calculated as the claimant was a minor and what can be taken is only a notional income. The above **V.Mekala's** case (supra) decided by the Supreme Court can be a guiding factor. The finding recorded by the Tribunal shows that the appellant was a bright student. The Supreme Court took the notional income of Rs.10,000/- to a girl aged about 16 years, who was injured in a motor accident. In view of the same, in this case also the said income can be taken as a notional income for the purpose of arriving at the total amount of compensation. The Supreme Court also noticed that the appellant is entitled to 50% increase under this head as per the principle laid down in **Santosh Devi v. National Insurance Company** and, accordingly, calculated the income.

Learned Counsel for the appellant fairly submits that the multiplier of 15 can be applied in a case like this. If the notional income of Rs.10,000/- is taken with enhancement of 50%, the annual income would be Rs.27,00,000/-. The said amount has to be further reduced since the disability is only 50% permanent partial disability and I am of the opinion that ends of justice would be met if an amount of Rs.6,00,000/- is awarded towards disability and injury. In respect of other heads, there need not be any interference, except with regard to the pain and suffering. An amount of Rs.20,000/- was awarded towards pain and suffering, which is grossly inadequate. The said amount is enhanced to Rs.1,00,000/-. In the circumstances, the amount awarded is enhanced as follows.

Disability and injury - Rs.6,00,000.00

Remaining two grievous injuries - Rs. 30,000.00

Simple injury - Rs. 10,000.00

Medical expenses - Rs.1,25,000.00

Pain and suffering - Rs.1,00,000.00

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Total amount of compensation - **Rs.8,65,000.00**

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In all, an amount of Rs.8,65,000/- is awarded as just compensation to the appellant and the award passed by the Tribunal in O.P.No.614 of 2002 is modified accordingly. The enhanced amount shall carry interest at 9% per annum from the date of petition till the date of realization. The enhanced amount shall be paid to the claimant on payment of deficit Court fee as the claimant paid Court fee claiming an amount of Rs.6,00,000/-.

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

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**(A.RAMALINGESWARA RAO, J)**

17.11.2015

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