

HON'BLE SMT JUSTICE ANIS

M.A.C.M.A.No.1331 of 2005

J U D G M E N T:

This appeal is filed by the appellants/second and third respondents under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), aggrieved by the order and decree dated 19.11.2003, passed by the Chairman, III Motor Accident Claims Tribunal, Warangal, in O.P.No.1045 of 2001, awarding compensation of Rs.2,60,000/-.

2. The respondent No.1/petitioner filed the above Original Petition under Section 166 of the Act claiming compensation of Rs.1,00,000/-, and later enhanced to Rs.3,00,000/- on account of the injuries sustained by him in a motor vehicle accident that occurred on 25.03.2001.

3. For the sake of convenience, the parties hereinafter will be referred to as they are arrayed in the Original Petition.

4. The brief averments made in the petition are that 25.03.2001 at about 12:30 noon, when the petitioner was returning to Bhupalpally after unloading coal at Palvancha in the lorry bearing No.AP.16.V.8285 and when it reached the outskirts of Chilukammanagar village, Khanapur Mandal, Warangal District, the driver of the lorry namely Vodnala Sudhakar drove it in a rash and negligent manner with high speed, applied sudden brakes resulting the left side door of the lorry was dislocated, and petitioner, who sat near the door fell down on the road and received serious injuries. The petitioner was aged about 25 years and working as a lorry cleaner and earning Rs.2,500/- p.m. Therefore, the petitioner prayed the Court to grant compensation.

5. Before the Tribunal, the first respondent remained *ex parte*.

6. The brief averments made in the counter filed by the second and third respondents are as follows:

The respondents put the petitioner to prove the manner of

accident, age and income of the petitioner and denied that the petitioner was earning Rs.2,500/- p.m by doing cleaner work and that they are not aware about the criminal case filed by the petitioner or anybody and further stated that the respondents are not liable to pay any compensation unless and until it is proved that the petitioner is working as a cleaner in the lorry. The respondents also put the petitioner to prove that the driver of the vehicle was having valid and subsisting driving license and finally stated that the claim of the petitioner is high and excessive and prayed the Court to dismiss the petition.

7. Basing on the above pleadings, the Tribunal framed three issues and to substantiate his claim, the petitioner got examined PWs.1 & 2 and got marked Exs.A.1 to A.7 on his behalf. On behalf of the contesting respondents no oral evidence was adduced, but Ex.B1 got marked with consent.

8. The Tribunal after considering the evidence available on record held that the accident occurred due to rash and negligent driving of the driver of the lorry bearing No.AP.16.V.8285, in which the petitioner sustained grievous injuries and awarded compensation of Rs.2,60,000/- along with interest at 9% p.a to the petitioner.

9. Being aggrieved by the award passed by the Tribunal, the second and third respondents preferred the present appeal.

10. The learned counsel appearing for the appellants/second and third respondents argued that the Tribunal without considering proper multiplier awarded the compensation excessively. The relevant multiplier applicable in this case is '17' but not '17.5'. Further, the Tribunal awarded compensation along with interest at 9% p.a against the judgments of the Hon'ble Supreme Court in ***Sanobanu Nazirbhai Mirza and others v. Ahmedabad Municipal Transport Service***^[1], ***Rebeka Minz and others v. Divisional Manager, United India Limited***

Insurance Company Limited and another^[2] and *Sarla Verma and others V. Delhi Transport Corporation and another*^[3] and prayed the Court to reduce the rate of interest and also to take relevant multiplier as '17'.

11. On the other hand, the learned counsel for the first respondent argued that the Tribunal after considering the evidence of PWs.1 & 2 granted reasonable compensation along with interest at 9% p.a and the said finding of the Tribunal needs no interference and prayed the Court to dismiss the appeal.

12. Having regard to the submissions made by the learned counsel appearing for both the parties, the points which are to be decided in this appeal are as follows:

1. Whether the appellants/second and third respondents are liable to pay compensation to the first respondent/petitioner or not?
2. Whether the compensation awarded by the Tribunal to the petitioner is excessive or not?

13. **P O I N T:** A perusal of the record shows that the petitioner himself was examined as PW.1 to prove that on the date of incident he was working as a cleaner and the driver of the lorry bearing No.AP.16.V.8285 drove the vehicle in a rash and negligent manner due to which the accident occurred. To prove the oral evidence, Ex.A1-Copy of the First Information Report and Ex.A2-Copy of the Charge Sheet were filed. After perusing the evidence of PW.1 coupled with Exs.A1 & A2, the Tribunal rightly held that the accident occurred due to rash and negligent driving of the driver of the lorry bearing No.AP.16.V.8285 and the said finding of the Tribunal needs no interference.

14. Regarding of the liability of the appellants/Insurance Company to pay the compensation is concerned, a perusal of Ex.A6 cover note and

Ex.B1 policy copy shows that the lorry was insured for a period from 07.08.2000 to 06.08.2001, and the accident occurred on 25.03.2001.

Therefore, it is clear that the appellants/second and third respondents are liable to pay compensation to the petitioner along with the owner and the said finding of the Tribunal needs no interference.

15. Coming to the quantum of compensation is concerned, the Tribunal rightly assessed the earning capacity of the petitioner as Rs.12,000/- p.a and multiplied it with the multiplier '17.5' instead of '17'. If the said amount of Rs.12,000/- is multiplied with '17', it comes to Rs.2,04,000/- and the same is awarded towards loss of future earnings. A perusal of the award passed by the Tribunal further shows that after considering the evidence of PW.1, the Tribunal rightly awarded Rs.1,000/- towards transportation charges, Rs.20,110/- towards medical expenses, Rs.20,000/- towards mental agony and Rs.9,000/- towards actual loss of earnings and the said findings need no interference. Thus, the petitioner is entitled for compensation of Rs.2,54,110/-.

16. The learned counsel for the appellants/Insurance Company vehemently opposed for granting interest at 9% p.a to the petitioner and prayed the Court to reduce the rate of interest to 6% p.a in view of **Sarla Verma's case** (third cited supra), though the Hon'ble Apex Court has time to time granted different rate of interests in view of **Sanobanu Nazirbhai Mirza's case and Rebeka Minz's case** (first and second cited supra). On the other hand, the learned counsel for the first respondent/petitioner conceded to grant interest at 6% p.a in view of the judgment of **Sarla Verma's case** (third cited supra). Thus, in view of the different rate of interests granted by the Apex Court in the judgments of **Sanobanu Nazirbhai Mirza's case and Rebeka Minz's case** (first and second cited supra) and in view of the **Sarla Verma's case** (third cited supra), I am of the considered view that the rate of interest awarded by the Tribunal is excessive and therefore, it is a fit case to reduce the rate

of interest from 9% to 6% p.a.

17. In the result, the Appeal is partly allowed, reducing the compensation awarded by the Tribunal to the petitioner from Rs.2,60,000/- to 2,54,110/- and also the rate of interest from 9% to 6% p.a from the date of petition till the date of realisation. No order as to costs. Miscellaneous Petitions, if any, pending in this appeal shall stand closed.

ANIS, J

Date: 21.08.2015

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[\[1\]](#) 2013 ACJ 2733

[\[2\]](#) 2012 ACJ 2328

[\[3\]](#) (2009) 6 SCC 121