

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

FOR THE STATE OF TELANGANA AND THE STATE  
OF ANDHRA PRADESH

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C.M.A.No. 1453 OF 2005

Between:

Delli, D/o Narayanaswamy  
... Appellant/ Petitioner/Claimant

And

A. Muralimohan Naidu S/o Rajamani Naidu and others  
... Respondents

DATE OF JUDGEMENT PRONOUNCED: 15-07-2015

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**SUBMITTED FOR APPROVAL:**

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**HON'BLE SMT JUSTICE ANIS**

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| 1. Whether Reporters of Local newspapers<br>may be allowed to see the Judgment?  | Yes/No |
| 2. Whether the copies of judgment may be<br>marked to Law Reporters/Journals?    | Yes/No |
| 3. Whether Their Ladyship/Lordship wish to<br>see the fair copy of the Judgment? | Yes/No |

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**HON'BLE MRS JUSTICE ANIS**

**MACMA NO. 1453 OF 2005**

**J U D G M E N T :**

This appeal is filed by the appellant/petitioner under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), aggrieved by the award dated 6.08.2004, passed by the Chairman, Motor Accident Claims Tribunal –cum- I Additional District Judge, Chittoor, in M.V.O.P.No. 460 of 1999, awarding compensation of Rs. 4,000/-.

2. The petitioner filed the above O.P. under Section 166 of the Act, claiming compensation of Rs.50,000/- for the injuries sustained by him in a motor vehicle accident.

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 on 05.07.1999 the petitioner along with her relatives was travelling in a Jeep bearing No. PY-01-E 7985 from their village Kothapalle to go to Tamilnadu to attend a function and by the time the Jeep reached Mangalapalle Cross near Chittoor Gudiyatham road at about 3.3.0 PM, a lorry bearing No. AP-02-T-0086 came from opposite direction driven by its driver with high speed in a rash and negligent manner dashed the Jeep in which the petitioner was

travelling. Due to the said accident, the petitioner received grievous injuries.

5. The petitioner stated that at the time of accident, she was aged 19 years, unmarried, and was earning Rs.1,000/- per month by doing cultivation work.

6. First respondent, owner of the Jeep bearing No. PY 01 E 7985, was set *ex parte*.

7. Second respondent filed a written statement denying the averments in the petition with regard to the claimant's age, occupation and income and that she was travelling in the Jeep and sustained injuries as stated in the petition. He also stated that the accident took place due to rash and negligent driving of the driver of the lorry bearing No. AP 02 T 0086 belonging to the third respondent, which was insured with the 4<sup>th</sup> respondent and therefore, respondents 3 & 4 are only liable to pay compensation and prays that petition may be dismissed.

8. Fourth respondent also filed a written statement, which was adopted by the third respondent under a memo, stating that the total claim of Rs. 50,000/- is excessive, exorbitant and without any basis. He also stated that the driver of the lorry made his best efforts to avoid the accident but inspite of it, the accident occurred, as such, the 4<sup>th</sup> respondent is not liable to pay any compensation to the petitioner. He further stated that the petitioner was not getting any income, therefore, contributing her income to the family does not arise and therefore, prays that petition may be dismissed.

9. Basing on the pleadings, the Tribunal framed two issues and to substantiate the claim, on behalf of the petitioner, petitioner herself was examined as PW-1 and examined the doctor who

examined her as PW-2 and got marked Exs.A.1 to A.5. On behalf of the respondents, RW-1 was examined and got marked Ex.B.1 Policy.

10. After considering the oral and documentary evidence, the Tribunal awarded compensation of Rs.4,000/- to the petitioner along with 9% interest from the date of filing of OP till the date of deposit.

11. Not satisfied with the compensation awarded by the Tribunal, the petitioner preferred the present appeal.

12. The learned counsel for the appellant argued that the petitioner was aged about 19 years at the time of accident and she was unmarried and was earning Rs.1,000/- by doing cultivation. Due to accident the petitioner suffered disfiguration of face and she spent Rs. 15,000/- towards medical expenses. But, the Tribunal, without considering all the above aspects, granted meager amount. Therefore, prayed the Court to enhance the compensation.

13. On the other hand, the learned counsel for the insurance company contended that after considering the evidence on record, the Tribunal rightly awarded Rs.4,000/- Therefore, prayed the Court to dismiss the appeal.

14. Having regard to the submissions made by the learned counsel for both the parties, the points that arise for consideration are:

- 1. Whether the compensation awarded by the Tribunal is just and reasonable?*
- 2. Whether the appellant is entitled for enhancement of compensation?*

15. **POINTS:**

Admittedly, as per evidence of PW-1, the petitioner was not a earning member by the time of accident, therefore, it cannot be said that there was any loss of income for the petitioner because of the injuries sustained in the accident. It is stated that the petitioner spent more than Rs. 15,000/- towards medical expenses. While giving evidence, the petitioner stated that she spent Rs. 20,000/- towards medical, transport, dietary and attendant expenses. According to petitioner, she has taken treatment in Government Hospital, Chittoor for 10 days as in-patient but she has not produced any evidence. It is no doubt true that as per Ex. A2, the petitioner has not sustained any grievous injuries. Likewise, at the time of accident, the petitioner was aged about 19 years and was earning Rs. 1,000/- per month by doing cultivation. But there is no evidence to prove the said fact of earnings also. Considering all these aspects, the Tribunal awarded Rs. 4,000/- as compensation under all the heads. In so far as the compensation awarded towards transportation and other miscellaneous expenses is concerned, the Tribunal granted only Rs. 400/- and the said amount is enhanced to Rs. 1,000/-. The Tribunal granted only Rs. 600/- towards medical and dietary expenses and the same is enhanced to Rs. 1,000/-.

16. Accordingly, the compensation awarded by the Tribunal is enhanced from Rs. 4,000/- to Rs.5,000/-. The enhanced compensation amount of Rs.1,000/-, shall carry interest at 7.5% per annum in view of the different rate of interests granted by the Hon'ble Supreme Court in the decisions reported in ***Sanobanu Nazirbhai Mirza and Others V. Ahmedabad Municipal Transport Service***<sup>[1]</sup> and ***Rebeka Minz and others v. Divisional***

***Manager, United India Insurance Company Limited and  
another<sup>[2]</sup>.***

17. In the result, the appeal is partly allowed. No order as to costs. Miscellaneous Petitions, pending if any, shall stand closed.

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**ANIS, J**

DATE: 15.07.2015  
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<sup>[1]</sup> 2013 ACJ 2733

<sup>[2]</sup> 2012 ACJ 2328