

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

* * * *

-
M.A.C.M.A. No.1212 OF 2005

Between:

Kotipalli Ganganna @ Gangaiah

...Appellant/ Petitioner

AND

Tanduri Bhagavan & another

.. Respondents/ Respondents

-
DATE OF JUDGMENT PRONOUNCED: 07-08-2015

SUBMITTED FOR APPROVAL:

HON'BLE SMT JUSTICE ANIS

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

THE HON'BLE SMT. JUSTICE ANIS

M.A.C.M.A. No. 1212 OF 2005

-

JUDGMENT:

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 16.03.2005, passed by the Motor Accidents Claims Tribunal—cum—IV Additional District Judge, (Fast Track Court), Tanuku, in O.P.No.172 of 2001, awarding compensation of Rs.20,500/-.

2. The appellant/ petitioner filed the above O.P. under Section 166 of the Act, claiming compensation of Rs.92,700/- for the injuries received by him in motor cycle 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 02.10.2000, the petitioner was going on his bicycle from Annavarapadu to Khandavalli for attending to work and when he reached Sakthamma Puntha cross road on NH5 at about 6.00 am, the 1st respondent—driver of RTC bus bearing No.AP 10 Z 6267 driven the bus in a rash and negligent manner, came from opposite direction and dashed against the petitioner on the wrong side after hitting another person. The petitioner had received grievous injuries. The police, Peravali Police Station, West Godavari District registered the same as a case in Crime No.65 of 2000 for the offences punishable under Sections 337 and 338 IPC.

5. The petitioner stated that he was aged about 25 years and doing cultivation. The 1st respondent is the driver, 2nd respondent —APSRTC represented by General Manager, Musheerabad, Hyderabad are joint and severally liable to pay compensation of Rs.92,700/- along with interest.

6. The first respondent remained *ex parte* before the Tribunal.

7. The brief averments made in the written statement filed by the second respondent are as follows:

The second respondent put the petitioner to prove the manner of accident, age and income of the petitioner and the expenses incurred by him in the hospital by spending huge amounts. Further, the claim of the petitioner is highly excessive and exaggerated and finally prayed the Court to dismiss the petition.

8. Basing on the pleadings, the Tribunal framed three issues and to substantiate the petitioner's claim, PWs 1 and 2 were examined and got marked Exs.A.1 to A.4. On behalf of the second respondent, RW.1 was examined and no documentary evidence was adduced.

9. The Tribunal, after considering oral and documentary evidence, held that the accident was occurred due to rash and negligent driving of the driver of the APSRTC bus bearing No.AP 10Z 6267 and in that accident, the petitioner sustained injuries, and awarded compensation of Rs.20,500/- along with interest at 9% per annum.

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

11. The learned counsel for the appellant argued that the Tribunal has not considered that the petitioner sustained grievous injuries and he was admitted in Rama Krishna Orthopaedic & Physiotherapy hospital for treatment for a considerable period and whenever he has taken treatment in a private hospital he spend huge amounts. It is also argued that the Tribunal has granted meagre compensation for the loss of earnings, towards pain and

suffering and other heads. The Tribunal has not considered the evidence of PW.2 and not awarded any compensation towards extra nourishment and other charges and compensation awarded for loss of earnings is very less, therefore prayed the Court to enhance the compensation.

12. On the other hand, the learned counsel for RTC argued that the Tribunal after considering the oral evidence of PWs.1 and 2 granted reasonable compensation of Rs.20,500/- along with interest at 9% per annum and the finding of the Tribunal needs no interference as the Tribunal considered all the heads in view of the oral evidence of PWs.1 and 2 and awarded just and reasonable compensation to petitioner, and prayed the Court to dismiss the appeal.

13. 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?

14. **Points:**

A perusal of the evidence of PWs 1 and 2 shows that in the accident the petitioner sustained five simple injuries to prove this fact, he filed Ex.A3—wound certificate. Considering the said evidence, the Tribunal awarded Rs.1500/- to each simple injury. Thus, an amount of Rs.7,500/- is awarded under the head of simple injuries though the petitioner has not filed any documentary evidence. PW.1 in his evidence states that he has spent huge amount for his treatment. The Tribunal considered that the said

fact, awarded Rs.5,000/- towards medicines and treatment and also awarded Rs.5,000/- towards pain and suffering. It is only the case of the petitioner that in the accident, he sustained grievous injuries and bedridden for a considerable period and due to the injuries he is unable to do any work and in the absence of any such evidence also, the Tribunal awarded Rs.3,000/- towards loss of earnings. Therefore, the finding of the Tribunal with regard to these aspects needs no interference.

15. A perusal of the record shows that the Tribunal has not awarded any compensation for extra nourishment. Therefore, considering the evidence on record an amount of Rs.1,000/- is awarded towards extra nourishment and Rs.1,000/- is awarded towards transport charges. Thus, the compensation payable to the petitioner comes to Rs.22,500/- (Rs.20,500/- + Rs.2,000/-).

16. Accordingly, the compensation awarded by the Tribunal is enhanced from Rs.20,500/- to Rs.22,500/-. As far as the rate of interest is concerned, 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 Vs. Ahmedabad Municipal Transport Service***^[1] and ***Rebeka Minz and others Vs. Divisional Manager, United India Limited Insurance Company Limited and another***^[2], I am of the view that an interest at 7.5% per annum shall be awarded on the enhanced amount of Rs.2,000/- from the date of appeal till the date of realisation.

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

(ANIS, J)

07.08.2015
knl

THE HON'BLE SMT. JUSTICE ANIS

-

-

-

-

-

-

-

-

-

M.A.C.M.A. No. 1212 OF 2005

Date:07.08.2015

knI

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

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