**HON'BLE SRI JUSTICE A. SHANKAR NARAYANA**

**M.A.C.M.A. Nos.1246 AND 2323 OF 2009**

**COMMON JUDGMENT:**

These two appeals have been preferred by rival parties. Former appeal is preferred by the respondent representing the erstwhile Andhra Pradesh State Road Transport Corporation (APSRTC) in O.P. No.1135 of 2006, on the file of the Chairman, Motor Accidents Claims Tribunal - cum - Chief Judge, City Civil Court, Hyderabad (for short 'the Tribunal') aggrieved by the order and decree, dated 01-02-2008, in O.P. No.1135 of 2006, whereby and where-under a sum of Rs.4,62,400/- was granted as compensation with interest at 6% per annum thereon as against the claim of Rs.7,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'). The latter appeal is preferred by the petitioner in the said OP aggrieved by the very same order and decree, seeking enhancement of compensation.

2. The appellants in the former appeal are respondents, while respondent in the former appeal is petitioner in OP before the Tribunal.

3. For the sake of convenience, the parties are hereinafter referred to as they were arrayed in OP before

the Tribunal.

4. The dispute is in regard to quantum of compensation determined by the Tribunal. The Corporation's stand is that the amount granted by the Tribunal is excessive and without there-being any tangible evidence on record as to the earnings of the petitioner, the Tribunal fixed the income at Rs.3,000/- per month and even taken the disability at 70% though, ought not to have taken merely basing on an entry in Ex.A-7 - disability certificate issued by the Medical Board without there-being any elaboration as to how the said percentage of disability was assessed. Whereas, the petitioner claims that the Tribunal has granted inadequate compensation without having regard to the documentary evidence filed by him and the earnings ought to have taken at Rs.6,000/- per month but not Rs.3,000/- per month, and even the multiplier applied is not the correct multiplier, and even interest granted by the Tribunal is at lower side and, therefore, sought to modify the order and grant the balance amount.

5. Heard Sri N. Vasudeva Reddy, learned Standing Counsel appearing for the appellants in the former appeal and for respondents in latter appeal i.e., APSRTC, and Sri Kasireddy Jagatpal Reddy, learned counsel appearing for the respondent in the former appeal and for appellant in

the latter appeal.

6. Perused the order and the material on record, more particularly, Ex.A-7 and A-9. So far as the age of the petitioner is concerned, the Tribunal fixed it at 25 years. A finding is recorded there-for. Therefore, that finding cannot be upset without there-being any material to interfere with it.

7. Turning to the earnings of the petitioner, the petitioner is just basing on Ex.9, which is a letter addressed by him to the Managing Director, Reddy Labs, Hyderabad, dated 08-12-2006, which was subsequent to the date of accident. Except a copy and postal receipt to show that it was addressed to the Managing Director of the said Labs, no other material is placed to show as to what exactly he was pursuing earlier thereto, and what was the salary really he was getting. In that view of the matter, the Tribunal has construed the fact-situation occurring and fixed the monthly earnings at Rs.3,000/- though by guess work, but the same is reasonable under the circumstances and, therefore, even that finding recorded by the Tribunal as regards earnings of the petitioner cannot be upset.

8. Now, what remains for consideration is, whether the multiplier factor applied by the Tribunal is correct; and

further question whether the disability at 70% taken by the Tribunal is based on proper appreciation of evidence?

9. Since the age of the petitioner was 25 years on the date of accident as recorded by the Tribunal, certainly, the relevant multiplier is '18' as provided in the table formulated by the Hon'ble Supreme Court in **Sarla Verma & others v. Delhi Transport Corporation and another**[1]. Hence, in place of multiplier factor '17', multiplier '18' has to be applied. Thus, there is merit in the submission made by the learned counsel for the petitioner - appellant in the latter appeal.

10. Concerning partial permanent disability taken by the Tribunal at 70%, it is no doubt true Ex.A-7 is issued by the Medical Board showing 70% disability. But, so far as 70% disability is concerned, it is not the total disability, but it relates to organ disability. Be that as it may, since the very right arm was amputated to the extent extending beyond the elbow level, certainly, the disability at 70% taken by the Tribunal cannot be upset for the reason that he would be mainly depending on right hand for any avocation. In that view of the matter, the disability percentage taken by the Tribunal cannot be disturbed. When multiplier '18' is applied, it works out to Rs.6,48,000/- [Rs.36,000/- x 18] and 70% of it, works out to Rs.4,53,600/-. The other amounts of Rs.22,000/-

towards pain and suffering; Rs.2,000/- towards transport charges; Rs.5,000/- towards extra nourishment and Rs.5,000/- towards medical expenses granted by the Tribunal are maintained. Thus, in all, the petitioner is entitled to Rs.4,87,600/- (Rupees four lakhs eighty seven thousand and six hundred) as compensation [Rs.4,53,600/- + Rs.22,000/- + Rs.2,000/- + Rs.5,000/- + Rs.5,000/-] as against the amount of Rs.4,62,400/- granted by the Tribunal.

11. Turning to the rate of interest, the Tribunal granted 6% per annum, but it requires modification in view of the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**[2]. Therefore, the rate of interest is enhanced to 7.5% per annum from 6% per annum on the amount of Rs.4,87,600/- from the date of petition till realization/deposit.

12. Thus, subject to the aforesaid modifications, the appeal in MACMA No.1246 of 2009 filed by the Corporation is dismissed, and appeal in MACMA No.2323 of 2009 filed by the petitioner is allowed in part. There shall be no order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in the appeals, stand disposed of.

**A. SHANKAR NARAYANA, J**

**July 21, 2016.**
Mgr

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[1]. (2009) 6 Supreme Court Cases 121

[2]. 2013 ACJ 1403