

**HONOURABLE SRI JUSTICE
D. V. S. S. SOMAYAJULU**

M.A.C.M.A. NO. 1365 OF 2012

J U D G M E N T :

Questioning the judgment and decree dated 20/04/2010 passed by the First Additional District Judge-cum-Chairman-Motor Accident Claims Tribunal, Chittoor, in M.V.O.P.No. 295 of 2003, the second respondent-United India Insurance Company Limited, Chittoor, filed the present appeal.

2. Despite the service of notice, respondents 1 and 2 did not appear in this Court. Sri Byrapaneni Naresh, learned Standing for the appellant-Insurance Company is present and he argued the matter.

3. By and large, there is no dispute about the accident, the injuries etc. The medical evidence in this case is also clear and three doctors were examined as PW-2, PW-3 and PW-4, apart from the petitioner-claimant himself. The medical records were also taken on record and considered by the court below.

4. The essential ground that was raised and urged by the standing counsel for the appellant is that in Para No.22 of the impugned judgment. The lower Court adopted a multiplier of "40". According to the learned standing counsel, neither in the second schedule nor in the later judgment in **NATIONAL**

INSURANCE COMPANY V/s. PRANAY SETHI ¹, of the Hon'ble Supreme Court of India is a multiplier of "40" ever been adopted. The learned standing counsel points out that therefore, this is a clear error in the judgment and decree.

5. Other issues were also raised about the alleged discrepancies and the injuries etc. This Court after examining the other issues raised including the quantum of compensation granted under other heads, is of the opinion that the lower Court did not commit any serious error in awarding the expenses like; medical expenses of Rs.90,000/-, travelling expenses to Bangalore of Rs.5,000/- etcetra. This part of the award in the opinion of this Court is just and reasonable. However, a reading of Para No.22 of the judgment and decree makes it clear that the Court assessed the income of the injured at Rs.1500/- per month and came to a conclusion that his annual income would be Rs.18,000/-. As there is no direct or categorical evidence of the income of the injured, the Court had to adopt this rough and ready method. The Court below therefore fixed the annual income of the injured as Rs.18,000/- per annum since the disability as deposed by the doctor was 20%. However, in the process of calculating the loss of income based on the age and disability of the injured, the Court below adopted the multiplier of "40".

6. Sri Byrapaneni Ramesh, learned Standing Counsel appearing for the appellant-Insurance Company is correct in stating

¹) 2017 A.I.R. 5157 S.C.

that the multiplier of “40” is not prescribed either under the Act or in the judgment of the Hon’ble Supreme Court of India delivered on the subject.

7. A reading of the Second Schedule shows that the maximum figure prescribed as the multiplier is “18” and that too for people aged between 25 to 30 years. This Court, is therefore, of the opinion that the adoption of the multiplier for the injury as “40” is incorrect. In view of the seriousness of the injuries sustained by the injured-claimant, this Court is of the opinion that the maximum multiplier is “18” should be adopted. If the loss of income is considered as 20% of Rs.18,000/-, it would come to Rs.3,600/- and loss would be $\text{Rs.3,600} \times 18 = \text{Rs.64,800/-}$. In the opinion of the Court, this is a correct compensation that should be awarded.

8. In all other aspects, the judgment and decree passed by the Court below is correct and does not warrant any interference. Therefore, this Court is of the considered opinion that the just compensation to be awarded is Rs.2,49,800/- and not Rs.3,29,000/- as assessed by the Court below.

9. The compensation, awarded by the Court below is corrected and the loss of earning capacity is reduced from Rs.1,64,000=00 to Rs.64,800/-. Therefore, the total compensation awarded is Rs.2,49,800=00. The heads of compensation are :

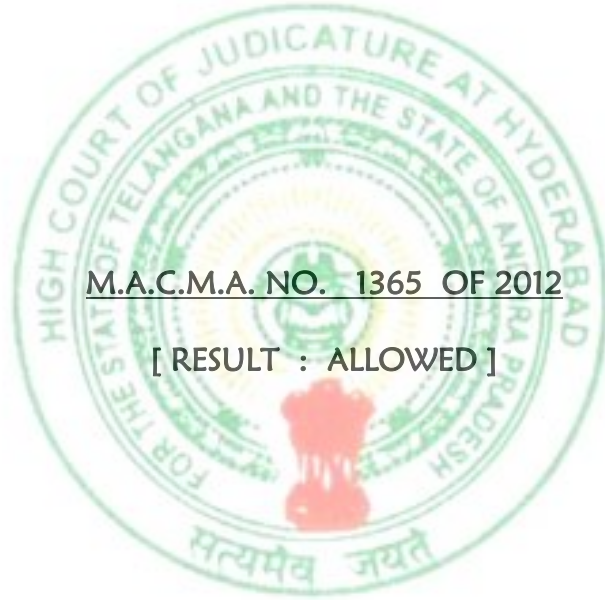
i)	Pain/suffering	:	Rs.	90,000=00
ii)	Medical Expenses	:	Rs.	90,000=00
iii)	Travelling Expenses	:	Rs.	5,000=00
iv)	Loss of earning	:	Rs.	1,64,000=00
Total		:	Rs.	2,49,000=00
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10. With this modification, this appeal is allowed. In the circumstances, both parties shall bear their own costs. Rest of the order is confirmed.

10. As a sequel, miscellaneous applications if any, pending in this appeal shall stand closed.

JUSTICE D.V.S.S. SOMAYAJULU

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Date: 29/10/2018

Court Master : I s L