

**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. 531 of 2012

Between:

Md. Hazi Babu @ Md. Hazi, S/o Shalam

.....Appellant

AND

M/s Sri Shakthi Transport and another

.....Respondents

Date of Judgment pronounced on : 22.02.2018

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

1. Whether Reporters of Local newspapers : Yes / No
May be allowed to see the judgments?
2. Whether the copies of judgment may be marked : Yes / No
to Law Reporters/Journals:
3. Whether The Lordship wishes to see the fair copy : Yes / No
Of the Judgment?

GUDISEVA SHYAM PRASAD, J

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD**M.A.C.M.A. No. 531 of 2012**

% 22.02.2018

Md. Hazi Babu @ Md. Hazi, S/o Shalam

.....Appellants

Versus

\$ M/s Sri Shakthi Transport and another

..... Respondents.

< **GIST:**

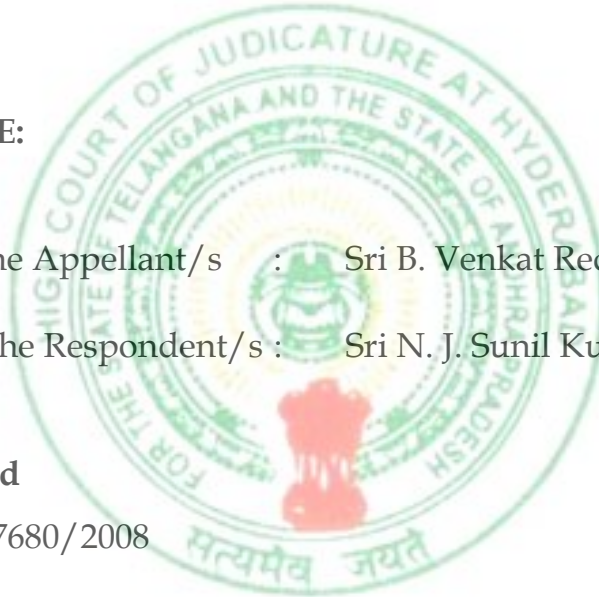
> **HEAD NOTE:**

! Counsel for the Appellant/s : Sri B. Venkat Reddy

^ Counsel for the Respondent/s : Sri N. J. Sunil Kumar

? **Cases referred**

¹ MANU/SC/7680/2008



THE HON' BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A.C.M.A. No. 531 of 2012

JUDGMENT:

This appeal is arising out of the Award dated 06.12.2006 passed in O.P.No.1750 of 2005 by the V Additional Metropolitan Sessions Judge (Mahila Court)-cum-XIX Additional Chief Judge, City Criminal Courts, at Hyderabad (for short, 'the Tribunal').

2. Brief facts of the case are that the appellant-petitioner has filed a petition under Section 166 of the Motor Vehicles Act, before the Tribunal claiming compensation of Rs.3,00,000/- on account of the injuries sustained by him in a motor vehicle accident on 06.06.2005 at about 6:30 hrs, while he was supervising at International Airport, Shamshabad, Ranga Reddy District, and on being hit by lorry a bearing No.JH-02B-8220 while reversing the lorry by its driver, without observing the petitioner. The petitioner sustained crush injury to his right leg and communitated fracture of meta-torsal bones 1 to 5 and bone pieces came out with bleeding injuries. Immediately, he was shifted to Care Hospital, Hyderabad and later to Gandhi Hospital, Secunderabad, where he was admitted and undergone treatment as inpatient from 06.06.2005 to 21.06.2005. His leg was operated on 11.06.2005. Alleging that the accident occurred due to the rash and negligent driving by the driver of the offending lorry,

the petitioner filed the claim petition against respondents 1 and 2, the owner and insurer, respectively, of the offending lorry.

Respondent No.1-owner remained ex parte. Respondent No.2-insurer filed counter denying the allegations in the claim petition, and contending that there is no negligence on the part of the driver of the offending lorry and that the driver of the offending lorry was not having valid driving licence and the vehicle is not having valid insurance coverage.

Basing on the pleadings, the Tribunal framed three issues. First issue is with regard to the rash and negligence; Second with regard to the entitlement of the petitioner to compensation; and the third, with regard to the quantum of compensation.

On behalf of the petitioner-claimant, PWs.1 to 3 were examined, and the documents Exs.A1 to A9 were marked. No oral evidence was adduced on behalf of the 2nd respondent-insurance company, except for marking Ex.B1-copy of insurance policy.

The Tribunal, on considering the oral and documentary evidence available on record, held that the accident occurred due to the rash and negligent driving by the driver of the offending lorry, and awarded compensation of Rs.62,000/- with interest at 7% per annum from the date of petition till realisation, holding respondents 1 and 2, the owner and insurer, jointly and severally liable to pay the compensation.

Aggrieved by the quantum of compensation awarded by the Tribunal, the petitioner-claimant preferred this appeal seeking enhancement of compensation.

3. Heard the arguments of Sri B. Venkat Reddy, learned counsel for the appellant-claimant; and Sri N. J. Sunil Kumar, learned counsel for 2nd respondent-insurance company.

4. Learned counsel for the appellant submits that the compensation awarded by the Tribunal is inadequate as the Tribunal has not awarded any compensation towards the 25% disability suffered by the appellant.

5. Learned counsel for the 2nd respondent submits that the permanent disability is not proved and, therefore, the Tribunal has not granted any amount towards permanent disability.

6. The evidence on record would reveal that PW.3, Dr. Narsing Rao, is an Orthopaedic Surgeon and he issued the disability certificate Ex.A7. As per the disability certificate Ex.A7, the appellant has suffered 25% disability due to the injuries received in the accident. PW.3 has stated clearly in his evidence that he examined the previous medical history of the appellant which revealed that the appellant was involved in a road accident and was admitted in Care Hospital, Exhibition Road; MLC was registered on the same day and he was shifted to Gandhi Hospital and was treated

as inpatient from 06.06.2005 to 21.06.2005, and on 11.06.2005, he underwent operation. On consideration of the medical record, the medical officer has stated that on 13.08.2006, he examined the patient Md. Hazi, the appellant herein and found that the fractures are mal-united joint stiffness present, restriction of movements present and, therefore, he assessed the disability at 25%. The Tribunal has not considered the evidence of PW.3 and has not awarded compensation towards the disability suffered by the appellant. The Tribunal has not considered the functional disability and also future prospects.

7. Therefore, in view of the facts and circumstances of this case, since the appellant was working as a Supervisor in Shamshabad Airport and drawing a salary of Rs.3,000/- per month, it would meet the ends of justice if an amount of Rs.50,000/- is awarded towards the 25% permanent disability, Rs.25,000/- towards future prospects, Rs.25,000/- towards extra nourishment, attendant charges and transportation. Having considered the facts and circumstances of the case, the compensation awarded by the Tribunal is enhanced from Rs.62,000/- to Rs.1,62,000/-.

8. **IN THE RESULT**, the appeal is partly allowed, by enhancing the compensation from Rs.62,000/- to Rs.1,62,000/- with proportionate costs and interest at 7.5% per annum from the date of petition till realisation, in the light of the judgment in **Dharampal**

and others Vs. U.P. State Road Transport Corporation¹. The respondents are directed to deposit the compensation amount within one month from the date of receipt of a copy of this order. Miscellaneous petitions, if any pending, shall stand closed.

GUDISEVA SHYAM PRASAD, J

22nd February, 2018

KSM



¹ MANU/SC/7680/2008

THE HON' BLE SRI JUSTICE GUDISEVA SHYAM PRASAD



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