

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

M.A.C.M.A No.148 OF 2019

DATED :22.04.2019

Between :

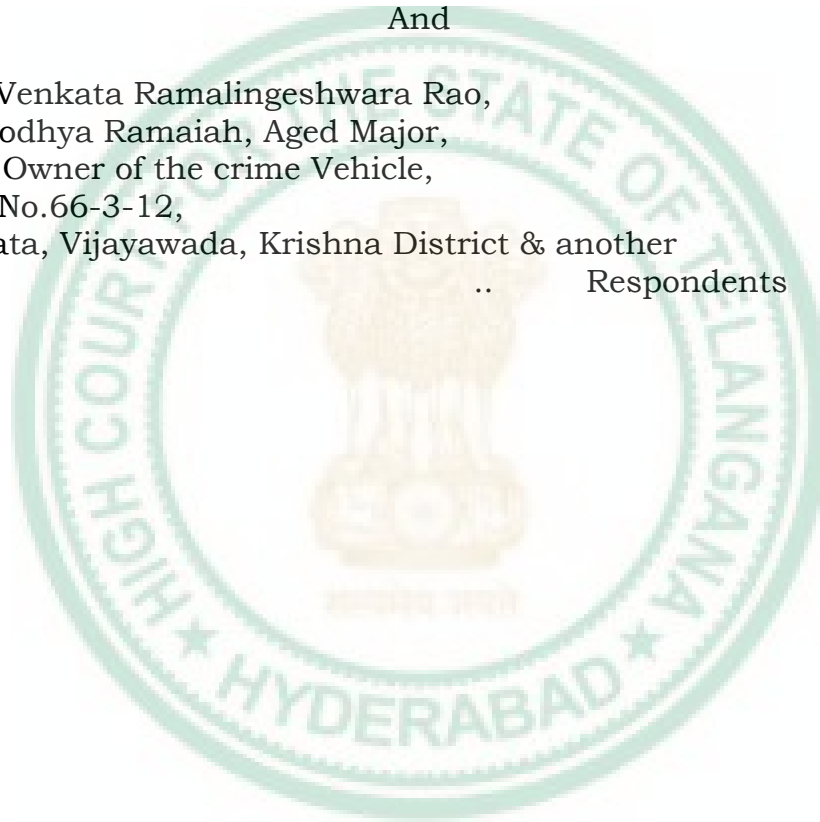
Manda Suvarna,
W/o.Mohan, Aged 35 yrs,
Occu : Private employee in Municipal Corporation,
Warangal, R/o.H.No.23-2-17, New Shyampet,
Hanamkonda, Warangal District.

.. Appellant/Petitioner

And

Kotha Venkata Ramalingeshwara Rao,
S/o.Ayodhya Ramaiah, Aged Major,
Occu : Owner of the crime Vehicle,
R/o.H.No.66-3-12,
Patamata, Vijayawada, Krishna District & another

.. Respondents



This court made the following :

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

M.A.C.M.A No.148 OF 2019

JUDGMENT :

The appellant herein is the petitioner in M.V.O.P.No.829 of 2010 before the Motor Accident Claims Tribunal, Warangal (for short 'the Tribunal') who sustained bleeding injuries due to rash and negligent driving of driver of Lorry bearing No.AP24V 1288. The Tribunal declared the disability suffered by the appellant as 30%; determined the monthly income as Rs.3,700/- and awarded compensation of Rs.2,13,120/- as loss of future earnings due to disability. In addition, the Tribunal awarded compensation of Rs.50,000/- for the head injuries, shock, pain and suffering; Rs.50,000/- towards hospital, medical expenses, transport, extra-nourishment and attendant charges etc and Rs.22,200/- towards loss of earnings. In all the Tribunal awarded Rs.3,35,320/- as compensation. Not satisfied with the compensation determined, this appeal is preferred by the appellant.

2. Heard learned counsel for the appellant and learned Standing counsel for the respondent-Insurance Company.

3. The Award passed by the Tribunal would disclose that though Tribunal did not dispute the disability certificate issued by the Medical Officer showing the disability as 65% of left lower limb, while determining the compensation payable, the Tribunal reduced the whole body scaled down disability to 50% and with regard to loss of earning capacity, the Tribunal assessed the disability as 30%.

4. The material on record would disclose that petitioner took treatment for 60 days. Having regard to the fact that the disability was not disputed and that the appellant underwent treatment for about 60 days, the loss of earning capacity at 30% arrived at by the Tribunal appears to be on lower side. In the facts of this case, based on the material discussed by the Tribunal, I am of the considered opinion that loss of earning capacity ought to have been assessed at 40% instead of 30%. Further, the Tribunal also erred in not taking into consideration the loss of future earnings by adding 40% to the income arrived at by the Tribunal.

5. Learned counsel for the appellant sought to contend that having regard to the fact that the medical officer certified the disability as 65%, the Tribunal ought to have awarded higher compensation towards future earnings. The Tribunal erred in not computing the future loss of earnings on the income arrived at.

6. If the contention of the appellant is accepted, it would require remitting the matter to the Tribunal. However having regard to the fact that the incident occurred on 14.09.2009, the O.P., was instituted in the year 2010 which was decided on 02.01.2018, this Court deems it necessary to give quietus to the litigation by passing an equitable order.

7. With reference to the amount of compensation, learned counsel for the appellant fairly submits that appellant is

agreeable for determination of appropriate compensation as deems fit by the Court to give quietus to the litigation.

8. Learned counsel for the respondent-Insurance company submits that the approach of learned counsel for the appellant is fair and leaves it to the Court to decide the issue.

9. Having regard to the issue involved in the appeal and as this Court is of the opinion that compensation awarded by the Tribunal is not commensurate with the loss caused to the appellant, the Award of the Tribunal is modified as under :

(i) With reference to the quantum of compensation arrived at by the Tribunal, in para "f" of the Award against loss of future earnings due to disability, it is now determined as Rs.3,84,000/- {Rs.5,000x12x16x40/100} by taking into consideration the disability at 40% instead of 30% and by rounding of the income as well as future prospects at Rs.5,000/- instead of Rs.3,700/-, the rest of the amount of compensation determined by the Tribunal stands.

10. The appeal is accordingly disposed of. Pending miscellaneous petitions, if any, shall stand closed.

P. NAVEEN RAO, J

22nd April, 2019
Rds