

**THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD**

**MACMA NO. 2354 OF 2006**

**JUDGMENT:**

This appeal is directed against the order and decree dated 19.09.2006 passed by the Motor Accidents Claims Tribunal-cum-Additional District Judge, Karimnagar (for short 'the Tribunal'), in O.P.No.294 of 2005, whereby the Tribunal awarded compensation of Rs.2,22,500/- on account of the injuries caused in a motor vehicle accident that occurred on 22.07.2002 against the claim of Rs.5,00,000/-.

2. For the sake of convenience, the parties herein are referred to as arrayed in the Court below.

3. Being dissatisfied with the quantum of Award passed by the Tribunal, the injured filed this appeal seeking enhancement of compensation.

4. The brief facts of the case are hereunder:

The petitioner was aged about 25 years and was working as Hamali and getting Rs.3,500/- per month. On 22.07.2002, the petitioner started from his house on his TVS Champ Moped to bring the household articles at about 07.30 p.m, when he reached near Dr Chandra Shekar Hospital, a tractor bearing No. AP 15 U 8481/8482 came from opposite direction in rashly and negligently at high speed and dashed his moped, for which he sustained fracture to his right hand and also head injuries, he was shifted to MGM Hospital, Warangal and thereafter referred to Jaya Hospital,

Hanmakonda and underwent emergency operation and was in patient from 22.07.2002 to 09.08.2002. The petitioner sustained 70% permanent disability and mental disorders and was affected with paralysis. Prior to the accident the petitioner was hale and healthy.

5. In order to prove the case of the petitioner, he himself examined as PW.1, Since the doctor, who treated the petitioner originally was died, the Superintendent of Hospitals was examined as PWs.2. PW.3, who issued physically handicapped certificate and PW.4, who issued Ex.A-5-certificate were examined and marked Exs.A.1 to A17 and Ex.B.1 copy of insurance policy was marked. No oral evidence is adduced on behalf of the respondents.

6. Learned counsel for the claimant contended that the tribunal failed to award just and fair compensation, even though there is ample evidence on record and that the tribunal erred in considering Ex.A.5, which was proved by proper evidence and hence, prayed to grant proper compensation.

7. Learned standing counsel for the insurance company opposed the claim of the petitioner and also contended that the award passed by the tribunal is well considered and needs no interference of this Court.

8. There is no dispute with regard to the manner of accident and involvement of the vehicle. In the light of the evidence, the tribunal has considered 70% disability, but failed to take into consideration of Ex.A.5- income certificate. When there is proper

evidence, the income of the claimant can be taken as Rs.3,500/- per month. The claimant is between the age group of 26 to 30, as per the decision of the Apex Court in **Sarala Verma and others v Delhi Transport Corporation and another**<sup>1</sup>, the relevant multiplier applicable is '17. As per the decision of the Apex Court in **National Insurance Company Limited v Pranay Sethi**<sup>2</sup>, the petitioner is entitled for 40% future prospects since he is self employed. The loss of income comes to Rs.6,99,720/- (Rs.3,500/- plus 40% (Rs.1,400) x 12 x 17 x 70%). Besides loss of income the petitioner is entitled for Rs.20,000/- towards medical expenses, Rs.10,000/- towards, pain and suffering, Rs.10,000/- towards, operation charges, Rs.25,000/- towards mental agony, Rs.10,000/- towards future medical consultation and physio therapy, Rs.2,000/- towards transport charges and Rs.1,000/- towards extra nourishment/ Thus the petitioner is entitled for compensation of Rs.7,77,720/- (Rs.6,99,720/- + Rs.20,000/- + Rs.10,000/- + Rs.10,000/- + Rs.25,000/- + Rs.10,000/- + Rs.2,000/- + Rs.1,000/-), which rounded to Rs.7,78,000/-. The enhanced compensation amount shall carry interest 7.5% per annum from the date of petition till the date of realization. The respondents are jointly and severally liable to pay the compensation amount within three months from the date of this judgment. The injured claimant is entitled to withdraw the compensation amount soon after the deposit is made. Though the claim is made for Rs.5,00,000/- in order to grant just and proper

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<sup>1</sup> 2009 ACJ 1298

<sup>2</sup> 2017(6) 170 (SC)

compensation for the reasons indicated above and in the light of the decision of the Apex Court in **Nagappa v Gurudayal Singh**<sup>3</sup> the compensation awarded can be more than the claim, the present appeal needs to be allowed. The claimant has to pay deficit court fee on over and above the claim amount and if the deficit court fee not paid as per Rule 475 of the M.V. Rules before the Tribunal, the claimants cannot be permitted to execute for the enhanced amount.

9. In view of the above, the appeal is allowed to the extent indicated above. There shall be no order as to costs.

Miscellaneous petitions if any, shall stand closed.

**T.AMARNATH GOUD,J**

Date: 30.10.2019  
kvrn

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<sup>3</sup> 2003(2) SCC 274