

**HONOURABLE SRI JUSTICE K. LAKSHMAN**

**M.A.C.M.A. No.1811 OF 2006**

**JUDGMENT:**

Feeling aggrieved by the award dated 12.12.2005 in OP No.495 of 2002, passed by XI Additional Chief Judge, City Civil Court, , FTC, Hyderabad, the appellant – claimant preferred the present appeal.

2. Vide the aforesaid award, the Tribunal awarded an amount of Rs.20,000/- towards compensation with proportionate costs with simple interest @ 9% per annum from the date of petition till 04.10.2004 only as against a claim of Rs.2,50,000/- by the appellant – claimant.

3. Heard the learned counsel for the appellant – claimant and the learned counsel for the respondent Corporation.

4. The appellant – claimant filed OP No.495 of 2002 contending that he is the driver in M/s.Universal Travels, Ramoji Film City, Ranga Reddy District, and he used to earn Rs.2,150/- per month. On 05.01.2001, at about 7.00 a.m., he was riding bicycle towards King Koti, reached King Koti circle, while so the bus bearing No.AP 10 Z 7338 belonging to the respondent Corporation driven by its driver in a rash and negligent manner, dashed his cycle, due to which he fell down on the road. Due to the said accident, the appellant – claimant sustained fracture to his right leg, grievous injury to the left side of fore head and other multiple injuries all over the body. He was shifted to Osmania General Hospital where he underwent treatment and spent huge amount towards treatment and other expenses. With the said contentions, the

appellant – claimant claimed an amount of Rs.2,50,000/- towards compensation from the respondent Corporation.

5. The respondent Corporation filed counter disputing the accident and its liability. The respondent also disputed the age, wage and nature of injuries sustained by the appellant – claimant.

6. The Tribunal, on consideration of the entire evidence, awarded an amount of Rs.20,000/- only. Aggrieved by the same, the appellant – claimant preferred the present appeal.

7. It is relevant to note that the Tribunal on consideration of the entire evidence gave a finding that the accident was occurred due to rash and negligent driving of the driver of the bus belongs to the respondent corporation. Admittedly, the respondent Corporation did not file any appeal challenging the said finding and the said finding attained finality.

8. The only question that falls for consideration by this Court is with regard to quantum of compensation.

9. It is the contention of the appellant that he is the driver of a vehicle used to work in M/s.Universal Travels and used to earn a sum of Rs.2,150/- per month. In support of his contention, he has filed Exs.P-6 and P-7 pay slips. Exs.P-29 to P-33 are the appointment letters and Ex.P.4 is the confirmation letter issued by the said Universal Travels. According to the appellant, he is aged about 39 years. There is no contra evidence filed by the respondent and nothing contra was elicited from

the cross-examination of PW.1. Therefore, it can be safely considered that the age of the appellant is 39 years.

10. With regard to the injuries sustained by the appellant, it is his specific case that he has sustained fracture to his right leg, grievous injuries to the left side of the forehead and other multiple injuries all over the body. His further contention is that he was immediately shifted to Osmania General Hospital and there he underwent treatment. He has filed Ex.P.1 FIR and Ex.P.3 charge sheet and Ex.P.4 Medico Legal Record wherein injuries are specifically mentioned. Ex.P.8 to P-20 are the medical bills. Ex.P.21 is the Radiologist report, Exs.P-22 to P-26 are the reports of the petitioner of Vijaya Diagnostics. Ex.P-27 is the treatment certificate, Ex.P-28 is the discharge certificate issued by Osmania General Hospital. He has also examined the Doctor, who treated him, as PW.2.

11. The Tribunal has awarded an amount of Rs.10,000/- only towards medical expenses as against the claim of Rs.35,000/- of the appellant – claimant. The Tribunal though referred Ex.P.5 to P.20 which would be totalling to Rs.12,909/-, awarded only Rs.10,000/- on the ground that it is reasonable. It is the duty of the Tribunal to consider the entire medical bills unless and until the same are disputed and disproved by the respondent that the said bills are false and fabricated. In the absence of the same, the Tribunal cannot disallow the claim of the appellant - claimant towards medical bills.

12. Admittedly, the amount under Exs.P-5 to P-20 (medical bills) is Rs.12,909-60 ps. The appellant –claimant sustained fracture to right leg, grievous injury to the left side fore head and other multiple injuries. Therefore, this Court feels that an amount of Rs.20,000/- would be reasonable amount towards medical expenses. Further, the Tribunal has not granted any amount under the head of loss of earnings. In this case, the appellant suffered fracture and grievous injuries and to heal the same, considerable time must have taken, and for the said period, the appellant must not have attended his work. Therefore, this Court is of the opinion that the appellant is entitled to an amount of Rs.8,600/- (@ Rs.2,150/- per month for 4 months) under the head of loss of earnings.

13. As discussed supra, it is the specific case of the appellant that he sustained fracture to his right leg and grievous injury to fore head and other multiple injuries all over the body and he was shifted to Osmania General Hospital and there he underwent treatment for quite a long time. PW.2 is the Doctor, who treated the appellant and PW.2 deposed about the injuries sustained by the appellant and its nature. According to PW.2 in cases of injuries as received by the petitioner, there is possibility of post injury head aches and memory impairment etc. It will take some time to get normalcy to the appellant and the appellant has to take rest. But, the Tribunal referring some admissions of PW.2- Doctor, has not awarded anything under the head of partial or permanent disability and loss of future income as claimed by the appellant. However, the Tribunal has awarded an amount of Rs.10,000/- towards pain and suffering as against the claim of Rs.25,000/- by the appellant claimant.

14. Such amount of Rs.10,000/- awarded by the Tribunal towards pain and suffering is not reasonable. Admittedly, the appellant-claimant is a driver at the time of accident and he filed Exs.P-6 and P-7 pay slips, Exs.P.29 to 33 appointment letter and Ex.P.34 confirmation letter issued by Universal Travels. He used to draw an amount of Rs.2,150/- per month as per Exs.P-6 and P-7. Due to fracture to his right leg, he is not in a position to drive the vehicle as he used to do before the accident. Apart from that, he sustained grievous injury to left side fore head and other multiple injuries all over the body, which are evident from Ex.A-4 and other medical record in the manner stated supra. Therefore, in view of the same, in the absence of any contra evidence, by the respondent Corporation, an amount of Rs.10,000/- awarded by the Tribunal is not reasonable. According to this Court, an amount of Rs.25,000/- to each of the injury i.e. fracture to right leg and grievous injury to left side of the fore head are reasonable. Therefore, the appellant is entitled for an amount of Rs.50,000/- towards pain and suffering for the said two injuries. The appellant is also entitled for Rs.5,000/- towards transportation and Rs.10,000/- towards extra nourishment. As discussed supra, the respondent – APSRTC is liable to pay the compensation to the appellant.

15. Therefore, she is entitled for the following amounts towards compensation:

|                      |    |              |
|----------------------|----|--------------|
| 1. Injuries          | .. | Rs.50,000-00 |
| 2. Transportation    | .. | Rs. 5,000-00 |
| 3. Extra nourishment | .. | Rs.10,000-00 |
| 4. Loss of earnings  | .. | Rs. 8,600-00 |

|                     |    |              |
|---------------------|----|--------------|
| 5. Medical expenses | .. | Rs.20,000-00 |
|                     |    | -----        |
| Total compensation  | .. | Rs.93,000-00 |
|                     |    | -----        |

Thus, the said amount of Rs.93,000/- (Rupees ninety three thousand only) is awarded as compensation with interest at 7.5% per annum thereon.

16. In the result, the MACMA is allowed in part and the judgment and decree dated 12.12.2005 in O.P. No.495 of 2002 passed by the XI Additional Chief Judge, City Civil Court, FTC, Hyderabad, are modified enhancing the compensation to Rs. Rs.93,000/- (Rupees ninety three thousand only) from Rs.20,000/-(Rupees twenty thousand only) with interest at the rate of 7.5% per annum on the enhanced amount, from the date of petition till realization. The respondent Corporation is directed to deposit the above said amount with interest and costs after deducting the amount which was already deposited, within one month from the date of receipt of certified copy of this judgment.

There shall be no order as to costs. As a sequel, miscellaneous petitions, pending if any, shall stand closed.

**K. LAKSHMAN, J**

**January 27, 2020**  
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