

**THE HONOURABLE SRI JUSTICE K.LAKSHMAN**

**M.A.C.M.A.No.2060 OF 2006**

**JUDGMENT:**

Heard learned counsel for the appellant and learned counsel for respondents.

2. Feeling aggrieved by the order and decree dated 04.07.2006 in O.P.No.92 of 2004 passed by the II Additional Metropolitan Sessions Judge-cum-XVI Additional Chief Judge, Hyderabad (for short 'the Tribunal), the appellant/claimant preferred the present appeal.

3. Vide the aforesaid order, the Tribunal has granted an amount of Rs.5,78,220/- towards compensation as against claim of Rs.10,00,000/- with proportionate costs and interest @ 7.5% per annum from the date of petition till the date of realisation.

4. It is relevant to note that the Tribunal on consideration of the entire record gave a finding that the accident was occurred due to rash and negligent driving of the driver of the lorry bearing No. AAT 7110. Admittedly, the 2<sup>nd</sup> respondent/insurance company did not file any appeal challenging the said finding and hence, the said finding attained finality.

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

6. Learned counsel for the appellant would submit that the Tribunal considered the age of the appellant as 24 years basing on the documents placed before it. He would further submit that due to the accident, left leg of the appellant was amputated above knee level. In support of his contention he relied upon the deposition of PW.4, the Chairman of the

Medical Board and Superintendent of Gandhi Hospital, deposition of PW.2, who is also the doctor, and Exs.A.108-disability certificate issued by the Medical Board. In support of Ex.A.108, the appellant examined PW.4-Superintendent of Gandhi Hospital and Chairman of the Medical Board. The Tribunal on considering the said depositions as well as Ex.A.108-disability certificate assessed the disability of the appellant as 60%. The Tribunal also considered the amputation of left leg of the appellant above knee level. In view of the said scheduled injury, the multiplier method has to be followed. As stated above, the age of the claimant was 24 years and 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 '18'.

7. It is the specific contention of learned counsel for the appellant that the appellant used to work as Site Supervisor and used to get an amount of Rs.5,000/- per month. In support of his contention, he relied upon evidence of PW.5, employer of the appellant and Ex.A.110-salary certificate issued by the Construction Company. But the Tribunal awarded an amount of Rs.1,75,000/- without giving any finding and reasoning. The Tribunal even did not follow the method of multiplier as held by the Apex Court in **Sarala Verma's** case referred supra. In view of the above discussion, when the annual income of the deceased was Rs.60,000/- (Rs.5,000/- x 12), applying relevant multiplier '18' and 60% disability, the appellant is entitled for a sum of Rs.6,48,000/- (Rs.60,000/- x 60% x 18) towards disability.

8. Learned counsel for the appellant relied upon the decision of the Apex Court in **Narendra Singh v Nishant Sharma and another**<sup>2</sup>

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<sup>1</sup> 2009 ACJ 1298

<sup>2</sup> (2015) 14 SCC 353

wherein the Apex Court relying upon the principle in **Kumaresh v National Insurance Co. Ltd.**<sup>3</sup>, gave a finding that an amount of Rs.50,000/- towards pain and suffering, Rs.15,000/- towards loss of income during treatment, Rs.1,00,000/- towards medical expenses for whole life, Rs.50,000/- towards conveyance charges and Rs.50,000/- towards food and extra-nourishment shall be awarded to the injured. It was also a case of like injury sustained by the claimant, in the present case.

9. Relying upon the decision in **Narendra Singh's** case referred supra, learned counsel for the appellant would submit that the appellant also entitled for the same benefits. Therefore, the appellant is entitled for Rs.50,000/- towards pain and suffering, Rs.1,00,000/- towards medical expenses for whole life since the left leg of the appellant was amputated above knee level, which requires medicature to the appellant for quite a long time, if not life time. The appellant is also entitled for a sum of Rs.10,000/- towards conveyance charges since the accident is of the year 2007 and Rs.25,000/- towards food and extra-nourishment charges.

10. The Tribunal on consideration of exhibits more particularly Exs.A.5, A.6 to A.107 rightly awarded an amount of Rs.3,43,220/- towards medical treatment.

11. The Tribunal despite considering the salary of the appellant as Rs.5,000/- per month and that he was bed ridden for seven months, lost his earnings, awarded an amount of Rs.30,000/- towards loss of earnings instead of Rs.35,000/-. Therefore, the appellant is entitled for a sum of Rs.35,000/- (Rs.5,000/- x 7) as loss of earnings capacity. Thus in all, the appellant is entitled for compensation as specifically

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<sup>3</sup> (2011) 12 SCC 488

mentioned below, which is just and reasonable with interest @ 7.5% per annum from the date of petition till the date of realisation.

|                               |                |
|-------------------------------|----------------|
| 1) 60% disability             | Rs. 6,48,000/- |
| 2) Loss of earning capacity   | Rs. 35,000/-   |
| 3) Pain and suffering         | Rs. 50,000/-   |
| 4) Medical expenses           | Rs. 1,00,000/- |
| 5) Medical treatment          | Rs. 3,43,220/- |
| 6) Conveyance charges         | Rs. 10,000/-   |
| 7) Food and extra-nourishment | Rs. 25,000/-   |

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Rs.12,11,220/-

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Though the claimant claimed an amount of Rs.10,00,000/-, in view of the above, the claimant is entitled for Rs.12,11,220/-, which is more than the claim, this Court is having power to grant just and reasonable compensation to which the claimant is entitled as held by the Apex Court in **B.Ramla v National Insurance Company Limited**<sup>4</sup>.

12. In the result, MACMA is allowed, modifying the decree and order dated 04.07.2006 in O.P.No.92 of 2004 passed by the II Additional Metropolitan Sessions Judge-cum-XVI Additional Chief Judge, Hyderabad enhancing compensation from Rs.5.78,220/- to Rs.12,11,220/- (Rupees twelve lakhs eleven thousand and two hundred twenty only) with interest @ 7.5% per annum thereon from the date of petition till the date of realisation. However, the claimant is directed to pay deficit Court Fee within a period of one month from the date of receipt of a copy of this judgment and if the deficit court fee not paid as per Rule 475 of the M.V. Rules before the Tribunal, the claimant cannot be permitted to execute for the enhanced amount. The respondents are directed to deposit or pay the compensation amount along with interest

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<sup>4</sup> (2019)2 SCC 192

within one month from the date of receipt of copy of this judgment, after deducting the amount, if any, deposited earlier. There shall be no order as to costs after deducting the amount, if any deposited earlier.

Miscellaneous petitions, if any, pending shall stands closed.

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**K.LAKSHMAN,J**

Date 27.01.2020  
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