

**THE HON'BLE SRI JUSTICE T.AMARNATH GOUD**

**M.A.C.M.A.Nos.774 OF 2011 and 2981 OF 2011**

**COMMON JUDGMENT:**

Since both the appeals arise out of the same O.P.No.726 of 2008 pertaining to the same accident and since both the parties are same, both the appeals are being heard and being disposed of together by way of a common judgment.

2. MACMA.No.774 of 2011 is preferred by the respondents/APSRTC and MACMA.No.2981 of 2011 is preferred by the claimant/injured questioning the order of the V Additional Metropolitan Sessions Judge, Mahila Court, at Hyderabad (for short, the Court below) in O.P.No.726 of 2008 dated 07.06.2010.

3. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Court below in the original petition.

4. The brief facts of the case are that on 02.01.2008 at about 6.30 a.m., while the petitioner was going by walk to Vani college and when she reached near Yashoda Hospital, Malakpet, Hyderabad, one APSRTC bus bearing No.AP 9 Z 7985 came in a rash and negligent manner from Dilsukhnagar towards Chaderghat and dashed against the petitioner, as a result of which she sustained compound comminuted fracture of both bones of right leg, crush degloving injury of right leg, avulsion injury of left heel, laceration over antero lateral aspect of knee

with exposed crushed muscles, laceration over lateral aspect of left heel and other injuries on all over the body. Immediately, she was admitted in Yashoda Hospital, Malakpet and she was treated as inpatient from 02.01.2008 to 22.01.2008. The petitioner has undergone surgery of right leg and left leg and skin grafting was done to the right leg. External fixation was fixed for compound comminuted fracture of right leg and debridement and slap was done. Prior to the accident, the petitioner was a student of second year B.Com, and she was also doing tailoring and embroidery work and she was earning Rs.4,000/- per month. On account of the injuries, the petitioner was permanent disabled and due to the disability, she lost earnings and earning capacity and her future prospects and amenities in her life. Hence, the petitioner filed the present claim petition claiming compensation of Rs.7,50,000/-, payable by the respondents/APSRTC.

5. In the claim petition, the respondents/APSRTC filed counter denying the allegations and contended that the amount claimed by the claimant is highly excessive and that it is not liable to pay any compensation and therefore prayed to dismiss the claim petition.

6. After considering the oral evidence of P.Ws.1 to 3 and R.W.1 and the documentary evidence of Exs.A-1 to A-17, the Court below came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the

offending APSRTC bus and awarded total compensation of Rs.4,16,930/-, i.e., Rs.1,44,000/- towards loss of disability, loss of earnings & earning capacity and Rs.2,72,930/- towards medical expenditure, transportation charges and attendant charges, with interest @ 7.5% per annum from the date of petition till the date of realization, payable by the respondents/APSRTC. Aggrieved by the said order, the respondents/APSRTC filed MACMA.No.774 of 2011 and the claimant filed MACMA.No.2981 of 2011.

7. Heard Sri P.Ramakrishna Reddy, learned counsel for the claimant and Sri N.Vasudeva Reddy, learned standing counsel for the respondents/APSRTC. Perused the material record.

8. Sri P.Ramakrishna Reddy, learned counsel for the claimant, submitted that though the claimant has mentioned her salary as Rs.4,000/- in the claim petition, but the Court below has erroneously disbelieved the same and fixed the monthly salary of the claimant @ Rs.3,000/-, which is very low. He further contends that the compensation amount awarded by the Court below is very meager, since the Court below has not granted any amount towards pain & suffering, loss of amenities and extra nourishment and also loss of marriage prospects and prayed to allow the appeal.

9. Sri N.Vasudeva Reddy, learned standing counsel appearing for the respondents/APSRTC submitted that the Court below passed a well reasoned order and sought to dismiss the appeal.

10. Admittedly, with regard to the income of the claimant is concerned, since the claimant was doing tailoring and embroidery work and earning Rs.4,000/- per month, the Court below has erroneously disbelieved the same and fixed the monthly salary of the claimant @ Rs.3,000/- per month, which is very less. Therefore, this Court feels that it would be just and appropriate, if an amount of Rs.4,000/- is fixed as the monthly salary of the claimant. Since the age of the claimant is 20 years at the time of the accident, the multiplier applicable is '18' as per the decision reported in **Sarla Verma and others v. Delhi Transport Corporation and Another**<sup>1</sup>. Since the disability fixed by the Court below is 25%, this Court is also inclined to consider the same. Therefore, the compensation under the head of 'loss of disability' comes to Rs.2,16,000/- (Rs.4,000/- X 12 X 18 X 25%). Since the Court below has not granted any amount towards pain & suffering, loss of amenities and extra nourishment, this Court feels that it would be just and appropriate if an amount of Rs.50,000/- is granted towards pain & suffering, loss of amenities & extra nourishment. Except the above modification, the rest of the award remains un-changed. Hence, the total compensation under various heads is as follows:

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<sup>1</sup> (2009) 6 SCC 121

| <b>Sl. No.</b> | <b>Name of Head</b>                                               | <b>Awarded by Court below</b> | <b>Awarded by this Court</b> |
|----------------|-------------------------------------------------------------------|-------------------------------|------------------------------|
| 01.            | Loss of Disability                                                | Rs.1,44,000/-                 | Rs.2,16,000/-                |
| 02.            | Medical expenditure, transportation charges and attendant charges | Rs.2,72,930/-                 | Rs.2,72,930/-                |
| 03.            | Pain & suffering, loss of amenities & extra nourishment           | -                             | Rs.50,000/-                  |
| 04.            | Loss of marriage prospects                                        | -                             | Rs.1,00,000/-                |
| <b>TOTAL</b>   |                                                                   | <b>Rs.4,16,930/-</b>          | <b>Rs.6,38,930/-</b>         |

11. In the result, M.A.C.M.A.No.2981 of 2011 filed by the claimant is partly allowed enhancing the compensation amount awarded by the Court below from Rs.4,16,930/- to Rs.6,38,930/-, payable by the respondents/APSRTC. The enhanced amount shall carry interest @ 7.5% per annum from the date of petition till realization. The respondents/APSRTC are directed to deposit the enhanced amount along with proportionate costs and interest within two (02) months from the date of receipt of a copy of this order. On such deposit, the claimant is permitted to withdraw the entire amount.

12. M.A.C.M.A.No.774 of 2011 filed by the respondents/APSRTC is dismissed. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

**T.AMARNATH GOUD, J**

Date: 6<sup>th</sup> January, 2020

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