

THE HON'BLE SRI JUSTICE PULLA KARTHIK

MACMA No.602 of 2019

ORDER:

This appeal is filed by the claimant aggrieved by the Judgment and Decree passed in M.V.O.P. No. 1791 of 2013 dated 14-11-2018 on the file of the Motor Accidents Claims Tribunal-cum-XIII Additional Chief Judge (Fast Track Court), City Civil Courts at Hyderabad, wherein the Tribunal had awarded compensation of Rs.2,25,000/- as against the claim of Rs.3,50,000/- for the injuries sustained by the petitioner in a motor vehicle accident that occurred on 11.04.2013.

2. The case of the appellant in brief:

On 11-04-2013 at about 7.00 p.m., while the appellant was proceeding from his house towards Nagaram X Roads, on NH.No.65, while going so, a Lorry bearing No. KA 56 0624 which was proceeding in the same direction at high speed and beyond required

speed, hit the appellant's motor cycle from rear side, as such the petitioner fell on his right side across the black top road edge on left side of the road. Immediately after the accident, the driver of the lorry drove it to some extent, parked lorry on its left side of the road and came back, tried to lift the motor cycle and also the appellant, by that time people gathered and identified the appellant, informed the same to his father China Jangaiah. Immediately the petitioner was shifted to Sai Sanjeevini Hospital, Kothapet, Hyderabad.

3. The respondent No. 1 remained exparte before the Tribunal.

4. The respondent No. 2/Insurance company filed its counter before the Tribunal denying the averments of the petition and contended that the petitioner has to prove the earnings of the petitioner and he has to prove that he sustained disability. It is further averred

that the manner and mode of accident shows that the petitioner has contributory negligence in causing the accident.

5. In proof of the case of the appellant/petitioner, the appellant himself examined as P.W-I, Ex. A-1 to A-8 were marked and PWs 2 and 3 were examined on his behalf. Respondents neither chosen to examine the witness nor filed any document in proof of their case.

6. On considering the evidence and material on record, the Tribunal awarded compensation of Rs.2,25,000/- with costs and interest @6% per annum from the date of filing of petition till realization with costs as under:

1.	One grievous injury	Rs.5,000/-
2.	Pain and suffering	Rs.1,00,000/-
3.	Medical expenses	Rs.1,09,302/-
4.	Transportation and extra nourishment	Rs.10,698 /-
	Total	Rs.2,25,000/-

7. Heard both sides.

8. The appellant contends that the Tribunal erred in not awarding future prospects by taking into consideration the evidence of PW2 and Ex.A5 and failed in awarding compensation towards loss of earning. It is further contended that the Tribunal erred in awarding a meagre amount of Rs.5,000/- towards grievous injury.

9. The respondent contends that the Tribunal had rightly passed award of Rs. 2,25,000/- basing on the evidence and material on record. It is further contended that there is no error in the order and requested to dismiss the appeal.

10. This Court has taken note of the submissions made by the respective parties.

11. According to PW2, the appellant had sustained with grade III compound fracture humerus with Brachial artery injury and with ulnar nerve injury.

Due to this injury he will have physical disability to an account of 30% and as per Ex.A5 i.e. disability certificate, the appellant had sustained 60% of disability. In view of the above, this court holds that the Tribunal had not justified in discarding the evidence of PW2 and Ex.A5. Therefore, this court is of the view that it is appropriate to consider 30% disability for the calculation of future loss of earnings.

12. As per the law laid down by the Hon'ble Apex court in Ram Chandrappa's case, the monthly income of the labour is to be taken at Rs.4,500/- per month. Hence the appellant is entitled for Rs.4,500/- per month for the purpose of calculation of future prospects. The appellant is also entitled for enhancement of award towards grievous injuries from Rs.5,000/- to Rs.25,000/- and also entitled to Rs.9,000/- towards loss of earnings for two months bed rest period and the rate of interest is enhanced from 6% to 7.5% as shown below:

1.	One grievous injury	Rs.25,000/-
2.	Pain and suffering	Rs.1,00,000/-
3.	Medical expenses	Rs.1,09,302/-
4.	Transportation and extra nourishment	Rs.10,698 /-
5.	Loss of earnings	Rs.9,000/-
6.	Future Loss of earnings $4500+4500 \times 40\% = 4500 + 1800 = 6300$ $6300 \times 30\% = 1890 \times 12 \times 18 = 4,08,240/-$	Rs.4,08,240/-
	Total	Rs.6,62,240/-

Accordingly the compensation awarded by the Tribunal from Rs. 2,25,000/- is enhanced to Rs.6,62,240/-. The enhanced amount will carry interest at 7.5% p.a. from the date of petition till the date of payment against both the respondents jointly and severally subject to the appellant paying the court fee on the enhanced amount.

13. In view of the above, the appeal is disposed of. There is no order as to costs.

Pending miscellaneous petitions, if any pending in this MACMA shall stand closed.

JUSTICE PULLA KARTHIK

26th September, 2022

Vns/Bw/ASR

THE HONOURABLE SRI JUSTICE P.KARTHIK

MACMA No.602 of 2019

DATED: 26.09.2022

Vns/Bw/ASR