

THE HONOURABLE SMT.JUSTICE P.MADHAVI DEVI

M.A.C.M.A.Nos. 269 OF 2017 and 634 OF 2012

COMMON ORDER:

The claimant is the appellant in M.A.C.M.A No.269 of 2017 and also respondent in the appeal filed by the Insurance Company in M.A.C.M.A No.634 of 2012. Both these appeals are filed against the award dated 26.05.2011 in O.P.No.2403 of 2008 on the file of II Additional Chief Judge-cum-Motor Accident Claims Tribunal, City Civil Court, Hyderabad.

2. The brief facts leading to filing of the present appeals are that in the Motor Vehicle accident that took place on 08.03.2008, the petitioner sustained fracture of both bones of left leg. The claimant claimed a compensation of Rs.6,00,000/- for the injuries sustained by him, while the Tribunal has awarded a compensation of Rs.2,53,000/- only and therefore, seeking enhancement of the compensation, the MACMA No.269 of 2017 is filed by the claimant. Challenging the compensation awarded by the lower Court, the Insurance Company has filed MACMA No.634 of 2012.

3. In the claimants appeal, there is a prayer for consideration of monthly income of the claimant @ Rs.12,000/- per month. It is noticed that the claimant claims to be a painter and submits that he has been earning Rs.10,000/- to

Rs.12,000/- per month, whereas the Tribunal has taken the monthly income only @ Rs.4,000/-. He also submitted that due to the grievous injuries to his left leg, he is unable to stand and perform his duties and therefore, there is loss of income to him for the period of recuperation and also subsequently. He prays that suitable compensation should be awarded towards loss of earning, loss of amenities, medical bills, medical expenses incurred for removal of inserted implants and also towards transportation.

4. Having regard to the rival contentions and the material on record, it is seen that the injured was 40 years of age at the time of accident and was admittedly doing painting works. With his age and experience, it is deemed fit and proper to assume that he would be earning anywhere between Rs.8,000/- to Rs.12,000/- per month at the relevant point of time. In view of the same, this Court deems it fit and proper to adopt the monthly income of the injured as Rs.10,000/- and compensation is awarded accordingly.

5. As regards loss of earnings, the claimant had claimed Rs.60,000/-, but the Tribunal has awarded compensation for a period of 6 months. Since, the monthly income of the claimant has been directed to be adopted at to Rs.10,000/-, the

compensation for a period of 6 months i.e., Rs.60,000/- is allowed.

6. The learned counsel for the claimant has relied upon the following Judgments in support of the claim of compensation towards disability and loss of future prospects:

(i) Jagadish Vs. Mohan and Others¹;

(ii) P.Vydehi Vs. A.Srinivas & Another²;

(iii) S.Satya Jaya Vs. G.Harshavardhan Reddy and Another³;

(iv) M.Anjaneyulu Vs. K.V.Rathaiah⁴;

(v) P.Benzamen Franklen Vs. S.Eshwara and Another⁵;

(vi) Syed Nawaz Ali Vs. V.Kondal Rao and Another⁶;

(vii) Singireddy Malla Reddy Vs. N.Sanjeevaiah and Another⁷;

(viii) Jakir Hussain Vs. Sabir and Others⁸.

7. This Court finds that in the case of **Jagadish Vs. Mohan and Others** (1st supra), the injured lost his both hands and was

1 2018 ACJ 1011 (SC)

2 High Court of A.P. in MACMA No.3034 of 2012, dated 29.04.2014.

3 High Court of A.P. in MACMA No.3031 of 2012, dated 29.04.2014.

4 High Court of Telangana in MACMA No.2240 of 2012, dated 02.08.2019.

5 High Court of Telangana in MACMA No.575 of 2011, dated 19.08.2019.

6 High Court of Telangana in MACMA No.2491 of 2012, dated 02.08.2019.

7 High Court of Telangana in MACMA No.268 of 2012, dated 20.08.2019.

8 2015 LawSuit (SC) 147

unable to perform day to day activities without assistance of an attendant and his disablement was assessed at 90%.

8. In the case of **P.Vydehi Vs. A.Srinivas & Another** (2nd supra), it was held that the injured therein cannot sit and squat, stand and walk for a long time due to mal union of pelvic bone and developed stiffness of right hip, femur and right side knee and therefore, she is unable to discharge her duties effectively and she was held to be suffering from permanent disablement.

9. In the case of **S.Satya Jaya Vs. G.Harshavardhan Reddy and Another** (3rd supra), it was observed that the injured therein sustained seven injuries including grievous injury on the front of wedge compression, fracture of D12 Vertebra, fracture of left leg foot, linear fracture, head of V M.T. Femur and based on these injuries it was concluded that the injured cannot travel long distances, cannot bend, cannot lift weights and cannot sit continuously for long time and that it is difficult for her to discharge her duties effectively and she was held to be suffering from permanent disablement.

10. The injured persons in the cases of **M.Anjaneyulu Vs. K.V.Rathaiah** (4th cited), **P.Benzamen Franklen Vs. S.Eshwara and Another** (5th cited), **Syed Nawaz Ali Vs. V.Kondal Rao and Another** (6th cited), **Singireddy Malla Reddy Vs. N.Sanjeevaiah**

and Another (7th cited), were certified to be suffering from multiple fracture injuries and were assessed to be suffering from disability. In all these cases, this Hon'ble Court awarded future prospects by relying on the judgment of the Hon'ble Supreme Court in the case of **Jagadish Vs. Mohan and Others** (1st supra).

11. In the case of **Jakir Hussain Vs. Sabir and Others** (8th cited), the injured therein sustained grievous injuries and his right arm had severe compound fractures preventing him from performing his regular work as a driver and his permanent disability was assessed at 30%, while functional disability was assessed at 100%.

12. In the case on hand, the avocation of the injured is painting. He sustained three injuries, (i) a sutured lacerated injury 3x1 cm., on the anteromedial aspect of left leg in the lower 1/3rd; (ii) an abrasion on the posterior aspect of the left fibula in the lower 1/3rd; (iii) swelling crepitus, abnormal mobility present in the lower 1/3rd of fibula and x-ray left ankle showing fracture of lower 1/3rd of fibula. The nature of injuries sustained by the injured in the present case does not propose award of compensation towards loss of future prospects inasmuch as these injuries are not of the nature defined under Section 142 of Motor Vehicles Act as laid down by the Hon'ble

Apex Court in the case of **Raj Kumar Vs. Ajay Kumar and Another⁹**.

13. Since no compensation has been awarded towards transport expenses and extra nourishment, the sum of Rs.10,000/- is allowed and the compensation of Rs.20,000/- towards loss of amenities is allowed.

14. In the light of the above mentioned discussion, the claimant is entitled to following amounts:

Sl.No.	Head	Compensation awarded
1.	Income (10,000x12)	Rs.1,20,000/- per annum
2.	Multiplier	15 (as applied by the Tribunal)
3.	Disability/loss of earning capacity	25% (as assessed by the Tribunal)
4.	Loss of income due to disability	Rs.4,50,000/- (1,20,000x15x25%)
5.	Lost of past earnings	Rs.60,000/- (10,000x6)
6.	Transportation and Extra nourishment	Rs.10,000/-
7.	Loss of amenities	Rs.20,000/-
8.	Pain and suffering	Rs.30,000/- (as awarded by the Tribunal)
9.	Medical expenditure	Rs.25,000/- (as awarded by the Tribunal)
	Total Compensation Awarded	Rs.5,95,000/- along with interest @ 7.5% per annum from the date of filing of the claim petition till payment

15. In the result, the award dated 26.05.2011 in O.P.No.2403 of 2008 on the file of the II Additional Chief Judge-cum-Motor

⁹ 2011 ACJ 1

Accidents Claims Tribunal, City Civil Courts, Hyderabad, is modified by awarding a total compensation of Rs.5,95,000/- (Rupees five lakhs and ninety five thousand only) with costs and interest @ 7.5% per annum thereon from the date of the claim petition till the date of realization against respondents No.1 and 2 jointly and severally. The respondent insurance company is directed to deposit the compensation amount awarded within 60 days from the date of receipt of a copy of this judgment, after giving credit to the deposit of amount, if any, already made. On such deposit, the claimant is permitted to withdraw the same without furnishing any security.

16. As regards the appeal filed by the Insurance company against the compensation awarded towards disability @ 25%, this Court finds that the Tribunal has accepted the medical certificate produced by the petitioner from the Medical Board and awarded the compensation accordingly. The insurance company has merely raised various grounds, but no evidence has been putforth in support thereof. Therefore, no interference is called for in this regard.

17. M.A.C.M.A.No.269 of 2017 filed by the claimant/injured is partly allowed without costs.

18. M.A.C.M.A.No.634 of 2012 filed by the insurance company is dismissed without costs.

19. Pending miscellaneous petitions, if any, in these MACMAs shall stand closed.

JUSTICE P.MADHAVI DEVI

Dated: 01.07.2022
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THE HONOURABLE SMT JUSTICE P.MADHAVI DEVI

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