

**THE HON'BLE SMT. JUSTICE M.G.PRIYADARSINI**

**M.A.C.M.A.No.903 of 2015**

**JUDGMENT:**

This appeal is filed by the claimant under Section 173 of Motor Vehicles Act, aggrieved by the order and decree, dated 09.05.2012 passed in M.V.O.P.No.1881 of 2009 on the file of the Motor Accidents Claims Tribunal-cum-Chief Judge, City Civil Court, Hyderabad (for short, 'the Tribunal').

2. For the sake of convenience, hereinafter, the parties are referred to as per their array before the Tribunal.

3. Brief facts of the case are that the claimant filed a petition under Section 166 of the Motor Vehicles Act, 1988 claiming compensation of Rs.1,00,000/- for the injuries sustained by him in a motor vehicle accident that occurred on 05.06.2009. It is stated that on 05.06.2009, while the claimant, aged 6 years, was traveling in the bus bearing No. AP 11Z 466 belonged to the respondents-RTC, at about 6:30 p.m., when the bus reached near Huggelly Village, the driver drove the bus in a rash and negligent manner at high speed and in the process of overtaking an auto, dashed the lorry bearing No. KA 32 9912 coming in the opposite direction. As a result, the claimant sustained

compound fracture of right hand, fracture of neck of right radius besides other injuries all over the body. He was treated initially at Government Hospital, Zaheerabad and later admitted at Gandhi Hospital, Secunderabad where he underwent a major operation. Since the accident occurred due to rash and negligent driving of the bus by its driver, the claimant laid the claim against the respondents-RTC, being the owners of the offending bus.

4. Considering the claim, counter filed by the respondents-RTC and also the oral and documentary evidence brought on record, the tribunal allowed the O.P. in part awarding a sum of Rs.55,000/- towards compensation with interest at 6% per annum. Challenging the quantum of compensation and the rate of interest being meagre, the claimant filed the present appeal.

5. Heard both sides and perused the record.

6. A perusal of the impugned order discloses that the tribunal has framed issue No.1 as to whether the accident occurred, resulting in the injuries to the claimant, due to the rash and negligent driving of the bus by its driver, and after considering the evidence of P.W.1 coupled with the documentary evidence i.e., Ex.A1, F.I.R. and Ex.A2, final report, it has

categorically observed that the accident occurred due to the rash and negligent driving of the bus by its driver and has answered the issue in favour of the claimant and against the respondents. Therefore, I see no reason to interfere with the finding of the Tribunal that the accident occurred due to the rash and negligent driving of the driver of the bus.

7. Insofar as the quantum of compensation is concerned, apart from producing Exs.A.3, M.L.C. report and Ex.A.4, discharge card issued by Gandhi Hospital, the doctor, who treated the claimant at Gandhi Hospital, was examined as P.W.2. P.W.2 in his evidence deposed that the claimant had sustained compound fracture of neck of right radius; that surgery was conducted on 15.06.2009; K-wire fixation was done to his right hand and he was discharged on 19.06.2009. He deposed that the injury sustained by the claimant was grievous in nature and that the claimant was advised to take follow up treatment. However, although he has deposed that the claimant needed follow up treatment, he did not depose as to the expenditure of treatment and though claimant has filed Ex.A.7, estimation letter for future operation, it was issued by some other private doctor and he was not examined. Considering the

nature of injuries sustained by the claimant, treatment undergone by him, amount spent by the claimant for his treatment, pain and suffering, mental agony, future treatment and extra nourishment, this Court is of the view that the amounts awarded by the tribunal under different heads are meagre and needs enhancement. Hence, the amount of Rs.40,000/- awarded by the tribunal under the heads of injury, shock, pain and suffering, is hereby enhanced to Rs.65,000/- considering the fact that the injury was grievous in nature. So also, considering Ex.A.6, medical bills, an amount of Rs.12,000/- is awarded under the head of expenditure towards medicines. He is also awarded an amount of Rs.15,000/- towards transport, extra nourishment and attendant charges. Thus, in all, the claimant is awarded total compensation of Rs.92,000/-. As regards the rate of interest awarded by the tribunal is concerned, the claimant is entitled to interest @ 7.5% per annum on the compensation awarded by the tribunal and also on the enhanced compensation, from the date of petition till realization, as per the decision of the Apex Court in **Rajesh and others v. Rajbir Singh and others**<sup>1</sup>. Hence, the interest

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<sup>1</sup> 2013 ACJ 1403 = 2013 (4) ALT 35

granted by the tribunal @ 6% per annum is enhanced to 7.5% per annum on the compensation amount of Rs.92,000/- from the date of petition till the date of realization.

8. In the result, the M.A.C.M.A. is allowed in part enhancing the compensation amount awarded by the Tribunal from Rs.55,000/- to Rs.92,000/-. The compensation amount shall carry interest at 7.5% p.a. from the date of the petition till the date of realization, payable by respondents-RTC. The amount shall be deposited within a period of one month from the date of receipt of a copy of this order. On such deposit of compensation amount by the respondents, the claimant is at liberty to withdraw the same without furnishing any security. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

11.11.2022  
tsr

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**SMT. M.G.PRIYADARSINI, J**

**THE HON'BLE SMT. JUSTICE M.G.PRIYADARSINI**

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**DATE: 11-11-2022**