

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

MA.CMA.NO.2110 OF 2014

JUDGMENT

Assailing the order and decree dated 23.10.2008 passed by the Motor Accidents Claims Tribunal – cum – III Additional Chief Judge, City Civil Court, Hyderabad (Tribunal) in O.P.No.2608 of 2006, the claimant – injured filed the present appeal.

2. The case of the claimant is that while he was proceeding in auto, driver of the crime lorry bearing No. KA 40A 3969 drove the lorry in a rash and negligent manner, and dashed the auto, as a result, he sustained injuries. The case of the claimant is that he was aged 22 years as on the date of the accident, and was earning an amount of Rs.3,000/- per month by working as auto driver and that due to the accident, his right hand was amputated, and in all, he claimed an amount of Rs.6,00,000/-.

3. The Tribunal based on evidence held that the accident in question occurred due to rash and negligent driving of the driver of the crime lorry bearing K.A 40 A 3969, and the claimant - injured sustained grievous injuries, and the present appeal is filed seeking for enhancement of compensation. Thus in the present appeal only the quantum is in dispute.

4. The Tribunal awarded an amount of Rs.3,00,000/- to the claimant for grievous injuries and for amputation, and Rs.10,000/- towards medical expenses, and thus in all, it awarded an amount of Rs.3,10,000/-, with interest at the rate of 7.5% per annum.

5. Heard the learned counsel for the appellant / claimant / injured, and the learned counsel for the respondent No.2 – insurer and perused the material available on record.

6. The case of the claimant is that prior to the accident, he was hale and healthy and was an auto driver and due to the accident, he sustained grievous injuries and he was hospitalized and his right hand was amputated, and he cannot drive the auto and thus suffered 100% functionality disability.

7. P.W.4 is the Medical Officer, deposed that P.W.1 sustained fracture, leading to amputation of his right hand. He further deposed that P.W.1 / injured became permanently disabled because of amputation.

8. As per the above evidence, the right hand of the claimant was amputated. However, it can be seen that though he cannot drive the auto, he can perform other functions with his left hand. In similar circumstances, in the judgment relied on by the Tribunal in **BANDARU AZAD CHANDRA SEKHAR vs. K.VENKATA RAMA AND OTHERS¹** the disability was assessed as 40% permanent and partial. Therefore, I am of the considered view that based on the medical evidence, the disability of the claimant can be assessed at 40% as permanent and partial.

9. With regard to income of the claimant, there is no documentary proof. In similar circumstances, where there is no income proof, the Apex Court in the **RAMACHANDRAPPAN v. THE MANAGER, ROYAL SUNDARAM ALIANCE INSURANCE COMPANY LIMITED²** has taken the monthly income of a daily wager at Rs.4,500/-. Hence, I am also inclined to take the monthly income of the claimant at Rs.4,500/-. The annual income comes to Rs.54,000/-.

10. As per the claim petition, the claimant is aged 22 years. The appropriate multiplier as per column No.4 of the table given in the judgment of the Apex Court in **SARLA**

¹2004(2) An.W.R. 276

²AIR 2011 SC 2951

VERMA vs. DELHI TRANSPORT CORPORATION³, is '18'. Thus the loss of income come to Rs.9,72,000/- (Rs.54,000/- x 18 multiplier = Rs.9,72,000/-).

11. As already stated above, this court assessed the partial and permanent disability of the claimant at 40%. 40% of Rs.9,72,000/- comes to Rs.3,88,800/-. Thus the claimant is entitled to Rs.3,88,800/- towards loss of income. The procedure adopted by the Tribunal in awarding lump-sum amount at Rs.3,00,000/-, without taking the income of the deceased, cannot be sustained.

12. Having regard to the above facts and circumstances, this court is inclined to grant an amount of Rs.20,000/- towards pain and suffering, and Rs.15,000/- towards attendant and transport charges. The amount of Rs.10,000/- granted by the Tribunal towards medical expenses needs no interference.

13. Thus, the claimant is granted the following amounts:

1. Loss of income	Rs.3,88,800 – 00
2. Pain and suffering	Rs. 20,000 – 00
3. Attendant and transport charges	Rs. 15,000 – 00
4. Medical expenses	Rs. 10,000 – 00

	Rs.4,33,800 – 00

14. Thus the amount of Rs.3,10,000/- granted by the Tribunal is enhanced to Rs.4,33,800/- with interest at the rate of 7.5 per cent per annum from the date of the claim

³(2009)6 SCC 121

petition till the date of realization. The insurance company shall deposit the amount within a period of six days from the date of receipt of a copy of this order.

15. On such deposit of the amount, the claimant is entitled to withdraw the same.

16. The appeal is accordingly allowed to the extent indicated above.

17. Interlocutory Applications pending, if any, shall stand closed. No order as to costs.

M.G.PRIYADARSINI,J

DATE:27—09—2022

AVS