

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**WEDNESDAY, THE THIRTEENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE SAMBASIVARAO NAIDU

M.A.C.M.A. NO: 113 OF 2019

Between:

Smt. Sayeeda Sultana, W/o. Md. Saleem, aged about - 44 Years, Occ- Labour-cum-
Housewife, R/o. H.No. 2-3-572/22, Amberpet, Hyderabad.

...APPELLANT

AND

1. M. Gopi Krishna, S/o.V.Damodhar Setty, aged about- Major, Occ- Business,
R/o. 6-1-128/1, Khairatabad, Hyderabad
2. M/s. Reliance General Insurance Company Limited,, Rep. by its Manager, 4th
Floor, Sagar Plaza Complex, Abids, Hyderabad

...RESPONDENTS

Appeal under Section 173 of Motor Vehicles Act against the order and decree
in M.V.O.P.No.194 of 2013 dated 31/07/2018 on the file of the Court of the
Chairman, Motor Accident Claims Tribunal-cum- XIII Additional Chief Judge (FTC),
City Civil Court at Hyderabad.

ORDER: This appeal coming on for hearing and upon perusing the grounds of
appeal, the Judgment and Decree of the Lower Court and the material paper in the
case and upon hearing the arguments of Sri C.Mohan Prakash, Advocate for the
Appellant and of Sri Kondadi Ajay Kumar, Advocate for Respondents.

This Court doth Order and Decree as follows:

1. That the Motor Accident Civil Miscellaneous Appeal be and hereby is dismissed; and
2. That there shall be no order as to costs in this appeal

**Sd/-G.SIREESHA
ASSISTANT REGISTRAR**

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SECTION OFFICER

To,

1. The Chairman, Motor Accident Claims Tribunal-cum-XIII Additional Chief Judge (FTC), City Civil Court at Hyderabad.
2. Two CD Copies

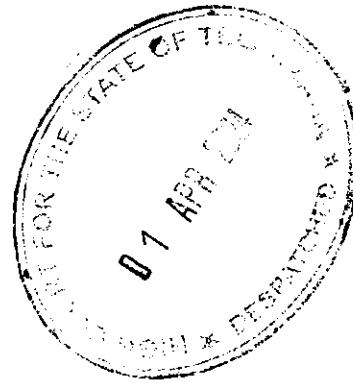
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HIGH COURT

DATED:13/12/2023

DECREE

MACMA.No.113 of 2019



**DISMISSING THE M.A.C.M.A.
WITHOUT COSTS.**

A. J. S. R.

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2/3/24

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TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE SAMBASIVARAO NAIDU

M.A.C.M.A. NO: 113 OF 2019

Appeal under Section 173 of Motor Vehicles Act against the order and decree in M.V.O.P.No.194 of 2013 dated 31/07/2018 on the file of the Court of the Chairman, Motor Accident Claims Tribunal-cum- XIII Additional Chief Judge (FTC), City Civil Court at Hyderabad.

Between:

Smt. Sayeeda Sultana, W/o. Md. Saleem, aged about - 44 Years, Occ- Labour-cum- Housewife, R/o. H.No. 2-3-572/22, Amberpet, Hyderabad.

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2. M/s. Reliance General Insurance Company Limited,, Rep. by its Manager, 4th Floor, Sagar Plaza Complex, Abids, Hyderabad

...RESPONDENTS

Counsel for the Appellant: SRI C. MOHAN PRAKASH

Counsel for the Respondents: SRI KONDADI AJAY KUMAR

The Court delivered the following: JUDGMENT

THE HONOURABLE SRI JUSTICE SAMBASIVA RAO NAIDU

M.A.C.M.A.No.113 OF 2019

JUDGMENT :

This Motor Accident Civil Miscellaneous Appeal has been filed by the claim petitioner in M.V.O.P.No.194 of 2013 on the file of the learned Chairman, Motor Accident Claims Tribunal-cum-XIII Additional Chief Judge, City Civil Court, Hyderabad (for short 'Tribunal', under Section 173 of the Motor Vehicles Act, 1988 questioning the Order dated 31.07.2018 passed in the above referred claim petition, whereunder the Tribunal has awarded a sum of Rs.2,00,000/- as compensation against her claim for a sum of Rs.7,00,000/- on the following grounds:

The Tribunal failed to consider the oral evidence of PWs.1 and 2 and documents marked as Exs.A1 to A.10 and awarded a meager amount of Rs.2,00,000/- against the claim for Rs.7,00,000/-. The Tribunal committed an error by not considering the income of the injured in spite of the evidence placed before the Tribunal to show that she was earning Rs.7,000/- per month by doing labour work as she was hale and healthy and aged about 44 years at the time of accident. The Tribunal committed an error by not granting any amount under the heads of loss of earnings and future loss of earnings but

awarded a lumpsum meager amount, which is contrary to law. The appellant has claimed that the Tribunal could have relied on the judgments placed before the Tribunal wherein, it was categorically held that the injured person is entitled to compensation more than the claim amount if the same is supported by the evidence. The Tribunal did not consider the evidence of PW.2 i.e., Medical Officer, who treated the appellant herein and issued certificate showing that the appellant suffered 50% of disability. The appellant has claimed that in view of the accident she is not able to work properly but this aspect was not considered by the Tribunal while awarding the compensation. Thereby, the appellant sought for enhancement of the compensation from Rs.2,00,000/- to Rs.7,00,000/-.

2. As could be seen from the impugned order, it indicates that the appellant herein has filed M.V.O.P.No.194 of 2013 claiming a sum of Rs.7,00,000/- as compensation for the injuries said to have been caused to her in a road traffic accident. The appellant has claimed that on 14.07.2012 she was travelling as a pillion rider on a motor bike from Simla Garden Function Hall to her house and when the bike reached Nalgonda X-road, the driver of one Indica Car bearing No.AP-9Y-912, drove the same in a rash

and negligent manner and dashed the motor cycle, as a result thereof, the appellant herein sustained grievous injuries and she was shifted to Nikhil Hospital for treatment. The appellant/claimant sought for a sum of Rs.7,00,000/- under various heads as compensation from the owner and insurer of the above said Indica car. Respondent No.1 remained *ex parte*. However, the Insurance Company disputed the claim alleging that the driver of the offending vehicle was not having valid driving licence and while disputing the age and income of the appellant herein sought for dismissal of the claim. The Tribunal has framed the following issues for determination:

- 1) Whether the accident took place due to the rash and negligent driving of the Indica Car bearing No.AP-9Y-912 by its driver causing injuries to the petitioner?
- 2) Whether the petitioner is entitled for compensation? If so, to what extent and from whom?
- 3) To what relief?

During the course of enquiry, the appellant herself was examined as PW.1 and one Sri A.Krishna Reddy was examined as PW.2. Respondent No.2 got examined its legal manager as RW.1 and Exs.B.1 to B.5 were marked. The Tribunal having considered the oral and documentary evidence, accepted the claim of the petitioner about the rash and negligent driving of the driver of the

offending vehicle and answered issue No.1 in favour of the appellant herein. Further, the Tribunal did not accept the contention of the appellant herein with regard to the alleged disability. Considering the oral evidence of PW.1 (claimant) and PW2, who has issued disability certificate, awarded a sum of Rs.2,00,000/- with proportionate costs and interest at the rate of 6% per annum.

3. Heard learned counsel for the appellant as well as the learned counsel for the respondent/Insurance Company and perused the material available on record.

4. Now the point that would emerge for determination is:

Whether the appellant herein is able to establish that she suffered permanent disability and she is entitled to more compensation than the amount that was awarded by the Tribunal?

5. The appellant herein has claimed that while she was travelling on a motor cycle, she met with an accident due to which, she suffered multiple injuries and she said to have received permanent disability. However, as could be seen from the impugned order, it unfolds that the appellant herein was examined as PW.1 and one Dr.A.Krishna Reddy has been

examined as PW.2. According to the evidence of PW.2, it transpires that on 16.09.2017 the appellant herein visited his hospital for assessment of disability. Therefore, PW.2 having perused the previous medical record, issued a certificate assessing the disability as 50%, which is partial and permanent. Even though the appellant claimed that she suffered multiple injuries, she did not choose to examine the Medical Officer by whom she was treated.

6. As rightly observed by the Tribunal, the accident was occurred on 14.07.2012, whereas PW.2 issued a certificate based on the alleged medical examination of the appellant on 16.09.2017, almost five years after the accident. Admittedly, no evidence has been produced by the appellant to show that there was malunion of the bones to which she received fracture. Even though, the appellant did not examine the Medical Officer, who provided treatment, the Tribunal relied on the judgment of **Anurag Jaya Ramulu @ Jaya Ramudu v. Mohammed Afzal Mayan**¹ and considered the case of the appellant and awarded compensation for the injuries suffered by the appellant. Even though, the appellant claims that she suffered 50% of the physical

¹ 2004(4) Andhra Weekly Report 770

disability, the disability certificate was not issued by any competent Medical Board, however the disability certificate issued by PW.2, whose identity and capability of issuing such a certificate is not established, was not accepted. There is no explanation from the appellant herein for her failure to obtain such medical certificate soon after the accident. In view of the long gap between the date of accident and the date of disability certificate, the contention of the appellant that she suffered 50% of medical disability cannot be accepted. The Tribunal having appreciated the oral and documentary evidence came to a correct conclusion and awarded an appropriate amount of compensation.

7. Be it viewed from any angle, this Court is of considered opinion that there are no grounds to interfere with the said findings or to enhance the compensation as the impugned order is on correct lines and interference of this Court is unwarranted. Therefore, this appeal is devoid of merits and deserves to be dismissed.

8. In view of the foregoing discussion, this appeal is dismissed. However, there shall be no orders as to costs.

Pending miscellaneous applications, if any, shall stand closed.

Sd/-G.SIREESHA
ASSISTANT REGISTRAR

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SECTION OFFICER

To,

1. The Chairman, Motor Accident Claims Tribunal-cum-XIII Additional Chief Judge (FTC), City Civil Court at Hyderabad.(with records)
2. One CC to Sri C. Mohan Prakash, Advocate [OPUC]
3. One CC to Sri Kondadi Ajay Kumar, Advocate [OPUC]
4. Two CD Copies

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HIGH COURT

DATED:13/12/2023

JUDGMENT

MACMA.No.113 of 2019



DISMISSING THE M.A.C.M.A.
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