

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

**WEDNESDAY, THE NINETEENTH DAY OF JULY
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 3096 OF 2009

Appeal Under Section 173 of Motor Vehicles Act against the order and decree in O.P.No. 822 of 2007 dated 11-06-2009 on the file of the Court of the Chairman Motor Accident Claims Tribunal-Cum- II Additional District Judge, Ranga Reddy District at L.B.Nagar.

Between:

P. Mallesh, S/o. Jambulaiah, Occ- Business, R/o. H.No. 9-86, Baharpet, Pargi Mandal, Ranga Reddy District.

...Appellant/Petitioner

AND

1. The A.P.S.R.T.C., Represented by its Managing Director, RTC X Roads, Musheerabad, Hyderabad.
2. The Andhra Pradesh State Road Transport Corporation,, Represented by its Depot Manager Pargi Depot, Pargi, Ranga Reddy District.

...Respondents/Respondents

Counsel for the Appellant: SRI. MIRZA SAFIULLA BAIG, Advocate

Counsel for the Respondents: SRI. THOOM SRINIVAS, Advocate

The Court delivered the following: JUDGMENT

THE HONOURABLE SMT. JUSTICE LALITHA KANNEGANTI

M.A.C.M.A.No.3096 of 2009

JUDGMENT:

This appeal is preferred by the appellant/claimant aggrieved by the award and decree dated 11.06.2009 passed in O.P.No.822 of 2007 by the Motor Vehicle Accident Claims Tribunal-cum-II Additional District Judge, Ranga Reddy District, at L.B. Nagar, Hyderabad (for short, 'the Tribunal').

2. Heard Mr. Mirza Safiulla Baig, learned counsel appearing for the appellant/claimant and Mr. Thoom Srinivas, learned standing counsel appearing for the respondents and perused the entire material on record.

3. The claim petition was filed seeking compensation of Rs.1,50,000/- for the injuries sustained by the claimant in the road accident and the Tribunal has granted compensation of an amount of Rs.32,000/-.

4. It is the case of the claimant that on 18.06.2007, at about 12:00 noon while the claimant and his friend were proceeding on the Hero Honda motorcycle bearing No.AP 28 AT 7961 and when they reached near Anjaneya Swamy Temple in the village limits of Doma, Rangareddy District, the driver of the APSRTC Bus bearing No.AP 10Z 8152 drove the bus at high speed in rash and negligent manner towards opposite direction, proceeding from Doma

Village towards Kosgi side and dashed the motorcycle of the claimant, due to which, the claimant and his friend fell down on the road and sustained multiple injuries all over the body and immediately shifted to NIMS hospital, Punjagutta. It is stated that the claimant was earning Rs.5000/- per month at the time of the accident.

5. In the cross-examination, PW1 i.e., the claimant deposed that he suffered injuries to head, lacerated wound over right knee, fracture of right leg and multiple injuries all over the body and that even after discharge from NIMS and Asha Hospitals, he has taken treatment in various hospitals and that he suffered from permanent disability and was totally bed ridden and as such, his bright future has been collapsed. In support of his contention, he relied on the evidence of PW2, i.e., Dr. G. Prasad Rao, Consultant Psychiatrist, wherein, PW2 deposed that he is one of the Directors of the Asha Hospital for the last ten years and that happened to see the claimant for the first time on 18.07.2007 in his Clinic at Barkatpura. The PW.2 further deposed that the claimant suffered from epileptic fits three times subsequent to the injuries sustained in road accident and had abnormal behavior of talking irrelevantly, loss of memory, sleeplessness and becoming angry and was running out of the house. As advised, the claimant was admitted in Asha Hospital on 11.08.2007 and discharged on 18.08.2007. The PW.2 also deposed

that claimant suffered from 60% disability due to psychiatric complication.

6. The Tribunal held that except the oral evidence of PW2, claimant has not produced any documentary proof in support of his contention that he suffered permanent disability due to psychiatric complication and that the NIMS hospital would have not discharged him if he had been suffering with the psychiatric problem. Therefore, the Tribunal held that it is difficult to believe that PW2 is the concerned Doctor gave medical treatment to the claimant and granted compensation of an amount of Rs.32,000/-.

7. Learned counsel for the appellant/claimant submits that without considering the evidence on record, the Tribunal has granted compensation of an amount of Rs.32,000/-. He further submits that the compensation awarded by the Tribunal is not just and reasonable.

8. Learned counsel for the Insurance Company submits that taking into consideration the facts and circumstances, the Tribunal had rightly granted the compensation.

9. Considering the evidence of the Doctor, this Court is inclined to take 30% as the disability suffered by the claimant and Rs.5,000/- per month as income of the claimant. As he was aged about 45 years at the time of accident, future prospects at 25% have to be

included which comes to Rs.6,250/- (Rs.5,000+Rs.1,250) and as the multiplier that is applicable to the age of the deceased is '14', the annual income would come to Rs.10,50,000/- (6,250X12X14). As this Court has considered 30% disability suffered by the claimant, the claimant is entitled for an amount of Rs.3,15,000/- (10,50,000X30%) under the head of loss of income due to disability. Because of the injuries sustained by the claimant due to the accident, this Court is inclined to grant an amount of Rs.10,000/- towards loss of earnings for a period of two months (5,000X2). This Court is inclined to grant an amount of Rs.10,000/- each under the heads of pain and suffering and Medical expenses. This Court is also inclined to grant an amount of Rs.5,000/- under the head loss of amenities. The Court below has granted an amount of Rs.1,000/- towards transport expenses and this Court is inclined to grant an amount of Rs.5,000/- under the head of transport expenses.

10. In the light of the above discussion, the appellant/claimant is entitled for the following compensation under different heads:

Head	Compensation awarded
(1) Loss of income due to disability	Rs.3,15,000/-
(2) Loss of earnings	Rs.10,000/-
(3) Pain and Suffering	Rs.10,000/-
(4) Medical Expenses	Rs.10,000/-

(5) Loss of amenities	Rs.5,000/-
(6) Transport	Rs.5,000/-
Total compensation awarded	Rs.3,55,000/-

11. In the result, the Motor Accident Miscellaneous Appeal of the appellant/claimant is allowed by enhancing the compensation amount awarded by the court below from Rs.32,000/- to Rs.3,55,000/- as hereunder:

- (a) The enhanced amount shall carry interest at 7.5% p.a. from the date of petition till the date of realization.
 - (b) The claimant shall pay the court fee on the enhanced amount of compensation.
 - (c) The respondent/insurance company shall deposit the amount within a period of (8) weeks from the date of receipt of copy of judgment. On such deposit, claimant is permitted to withdraw entire amount without furnishing the security.
- Pending miscellaneous petitions, 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- II Additional District Judge, Ranga Reddy District at L.B.Nagar. (with records)
2. One CC to SRI. MIRZA SAFIULLA BAIG, Advocate [OPUC]
3. One CC to SRI. THOOM SRINIVAS, Advocate [OPUC]
4. Two CD Copies

PSR

[Signature]

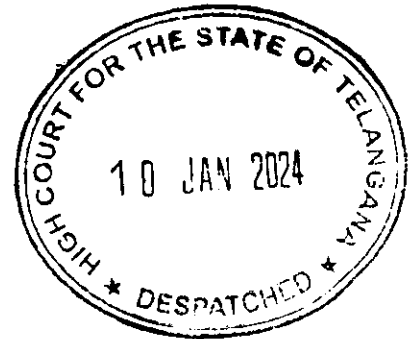
HIGH COURT

LK,J

DATED:19/07/2023

JUDGMENT

MACMA.No.3096 of 2009



ALLOWING THE MACMA WITHOUT COSTS.

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by
28/12/23

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decree in O.P.No. 822 of 2007 dated 11-06-2009 on the file of the Court of the
Chairman Motor Accident Claims Tribunal-Cum- II Additional District Judge,
Ranga Reddy District at L.B.Nagar.

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 papers in
the case and upon hearing the arguments of Sri. MIRZA SAFIULLA BAIG,
Advocate for the Appellant and of Smt. THOOM SRINIVAS, Advocate for the
Respondent.

This Court doth Order and Decree as follows:

1. That the Motor Accident Civil Miscellaneous Appeal be and hereby is allowed by enhancing the Compensation amount awarded by the Court below from Rs.32,000/- to Rs.3,55,000/-
2. That the enhanced amount shall carry interest at 7.5% per annum from the date of petition till the date of realization
3. That the respondent/insurance company shall deposit the amount within a period of 8 weeks from the date of receipt of a copy of Judgment
4. That on such deposit claimant is permitted to withdraw the entire amount without furnishing the security.
5. That there be no order as to costs in this appeal.

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

SECTION OFFICER

To,

1. The Chairman Motor Accident Claims Tribunal-Cum- II Additional District Judge, Ranga Reddy District at L.B.Nagar
2. Two CD Copies

PSR

PS

HIGH COURT

LK,J

DATED:19/07/2023

DECREE

MACMA.No.3096 of 2009

ALLOWING THE MACMA WITHOUT COSTS.

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