

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

**M.A.C.M.A. No.878 of 2017**

**JUDGMENT:**

This appeal is preferred by the injured, questioning the award and decree, dated 30.03.2016 passed in M.V.O.P.No.1865 of 2013 on the file of the Motor Accident Claims Tribunal-cum-X Additional Chief Judge, City Civil Court at Hyderabad (for short, the Tribunal).

2. For the sake of convenience, the parties have been referred to as arrayed before the Tribunal.

3. Brief facts of the case are that the claimant filed a petition under Section 166 of the Motor Vehicles Act claiming compensation of Rs.5,00,000/- for the injuries sustained by him in a motor vehicle accident that occurred on 21.04.2013. It is stated that on 21.04.2013, while the claimant was proceeding on a motorcycle, along with other two persons, at about 11:50 p.m., when they reached near Sai Ram Traders, which is located on Medak to Narsapur Road, the crime vehicle i.e., DCM bearing No.MH 24 F 9262, owned by respondent No. 1 and insured with respondent No. 2, being driven by its driver in a rash and negligent manner at high speed, dashed against the motorcycle, as a result of which, the claimant suffered fracture of left

maxilla, Bilateral nasal bone, nasal septum, left zygoma, lateral wall of left orbit, frontal bone involving left frontal sinus and roof of left orbit, anterior wall of lateral wall of bilateral maxillary antrum and left lamina papyrcea. Immediately, he was taken to Gandhi Hospital, Secunderabad, for treatment where he was treated as inpatient from 22.04.2013 to 05.10.2013. He was operated on 05.05.2013 for closed fracture of shaft of right femur. ORIF with K-NAILING was done and he was also attended by Plastic Surgeon. He spent Rs.1,10,000/- towards medical expenses. According to the claimant, he was working as labour and earning Rs.8,000/- per month. Due to the injuries sustained by him, he lost his income. Thus, he laid the claim seeking compensation of Rs.5,00,000/- against the respondents 1 and 2 jointly and severally.

4. While respondent No.1 remained ex parte, respondent No.2 filed counter disputing the manner of accident, nature of injuries sustained by the claimant, age, avocation and income of the claimant and further contended that the claim is exorbitant and sought for dismissal of the claim petition.

5. Based on the above pleadings, the Tribunal framed the following issues:

1. *Whether the claimant sustained injuries in the accident on 21.04.2013 due to rash and negligent driving of the DCM van bearing No.MH 24 F 9262?*
2. *Whether the claimant is entitled to any compensation. If so, from whom?*
3. *To what relief?*

6. In order to prove the issues, PWs.1 and 2 were examined and Exs.A1 to A13 got marked on behalf of the claimant. On behalf of respondent Nos.1 and 2, no witnesses were examined and no documents were marked.

7. Considering the oral and documentary evidence available on record, the Tribunal has awarded an amount of Rs.3,20,000/- towards compensation to the claimant along with costs and interest @ 7.5% per annum from the date of filing the petition till realization against the respondents jointly and severally.

8. Heard the learned counsel for the appellant-claimant and the learned Standing Counsel for the respondent No. 2- Insurance Company. Perused the material available on record.

9. The learned counsel for the appellant-claimant has submitted that although the claimant, by way of medical

evidence i.e. the evidence of P.W. 2, doctor and Ex.A.10, disability certificate, sufficiently established that the claimant had sustained disability at 40% due to the injuries suffered in the accident, the Tribunal has estimated the disability at 25% thereby awarded meager amount towards loss of income due to disability. Further, though P.W.2 has estimated the future medical expenditure at Rs.1,00,000/-, the tribunal has awarded only Rs.30,000/ which is meager and need to be enhanced reasonably.

10. On the other hand, the learned Standing Counsel appearing on behalf of respondent-Insurance Company sought to sustain the impugned award of the Tribunal contending that considering the manner of accident and the nature of injuries sustained by the claimant, the learned Tribunal has awarded reasonable compensation and the same needs no interference by this Court.

11. As regards the manner of accident, the Tribunal after evaluating the evidence of PW. 1, coupled with the documentary evidence available on record i.e., Exs.A.1 & A.2, held that the accident occurred due to rash and negligent driving of the driver of DCM bearing No.MH 24 F 9262. Therefore, this Court is not

inclined to interfere with the said findings of the Tribunal which are based on appreciation of evidence in proper perspective. Thus, the only dispute in the present appeal is with regard to the quantum of compensation.

12. As per the medical evidence available on record, the claimant sustained grievous injuries in the alleged accident and immediately he was taken to Gandhi Hospital, where he was treated as inpatient. The evidence of PW-2, who is the Doctor, coupled with Ex.A10, Disability Certificate, discloses that the claimant suffered 40% permanent disability due to shortening of right lower limb, mal-union of shaft of right femur and stiffness right knee. Therefore, this Court is inclined to accept the disability sustained by the claimant at 40%.

13. Coming to the quantum of compensation, according to the claimant, he was aged about 20 years at the time of accident and used to earn Rs.8,000/- per month by working as labour. But no evidence is produced, either oral or documentary, to prove his income. However, considering the avocation of the claimant and as the accident is of the year 2013, this Court is inclined to fix the income of the claimant as Rs.6,000/- per month. As per the records, the claimant was aged about 20

years at the time of accident. Therefore, the appropriate multiplier in light of the judgment of the Apex Court in **Sarla Verma v. Delhi Transport Corporation**<sup>1</sup> is “18”. Thus, the future loss of income due to 40% disability comes to **Rs.5,18,400/-** (Rs.6,000/- x 12 x 18 x 40/100). As seen from Ex.A.9, the claimant had spent Rs.16,000/- towards medical expenses. However, the tribunal has not awarded any amount under this head. Hence, considering Ex.A.9, this Court is inclined to award a sum of Rs.16,000/- towards medicines & treatment. That apart, in the light of evidence of P.W.2, the claimant is awarded Rs.40,000/- towards future medical expenses. The amounts of Rs.30,000/- towards pain and sufferings and Rs.25,000/- towards expectation of life and amenities awarded by the tribunal are not disturbed. However, he is awarded Rs.20,000/- under the head of attendant, transport charges and extra nourishment. Thus, in all, the claimant is entitled to Rs.6,49,400/- towards just compensation. As regards the rate of interest is concerned, the claimants are entitled to interest @ 7.5% per annum on the compensation awarded by the Tribunal from the date of petition

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<sup>1</sup> 2009 ACJ 1298 (SC)

till realization, as per the decision of the Apex Court in **Rajesh and others v. Rajbir Singh and others<sup>2</sup>**.

14. In the result, the M.A.C.M.A. is allowed by enhancing the compensation amount awarded by the Tribunal from **Rs.3,20,000/-** to **Rs.6,49,400/-**. The enhanced amount shall carry interest at 7.5% p.a. from the date of petition till the date of realization against the respondent Nos.1 and 2 jointly and severally. The amount shall be deposited within a period of one month from the date of receipt of a copy of this order. The claimant shall pay the deficit court fee. On such deposit of Court fee, the claimant is entitled to withdraw the same. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

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**JUSTICE M.G. PRIYADARSINI**

21.02.2023  
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<sup>2</sup> 2013 ACJ 1403 = 2013 (4) ALT 35

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