IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

TUESDAY, THE SEVENTEENTH DAY OF DECEMBER TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SMT JUSTICE M.G.PRIYADARSINI

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 478 OF 2017

Appeal filed under Section 173 of the Motor Vehicles Act against the Judgment and Decree passed in O.P.No. 1204 of 2010 dated 19.04.2016 on the file of the Court of the VIII Additional District and Sessions Judge, Ranga Reddy District, at L.B.Nagar.

Between:

A Ravi Babu @ Ravi Kumar, S/o Pullaiah, Aged about 35 years, occ: Mechanic in RTC, Working under contract Labour, C/o K.Madhusudhan Rao R/o H.No. 4-7-219/B, Opp. S.P.Office, Saketh Nagar, Vikarabad, Ranga Reddy District.

...APPELLANT/PETITIONER

AND

1. B. Anjaiah, S/o B.Pentaiah, Aged Major, Occ: Business, R/o C-173, NGOs Colony, Vanasthali puram, Ranga Reddy District, A.P.
2. M/s. Royal Sundarma Alliance Insurance Co Ltd, Rep by its Divisional Manager, is Controlling Office, for the M.V.Cases, office situated at Jewel Pavani Towers, A Block, 5th Floor, Rajbhavan Road, Somajiguda, Hyderabad -500 082.

...RESPONDENTS/ RESPONDENTS

Counsel for the Appellant: SRI. JAGATHPAL REDDY KASI REDDY

Counsel for the Respondent No.2: SRI A RAMA KRISHNA REDDY

The Court made the following: ORDER

THE HONOURABLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A.No.478 OF 2017

JUDGMENT:

1. Dissatisfied with the compensation awarded by the Chairman, Motor Accident Claims Tribunal-cum-VIII Additional District Judge, Ranga Reddy District at L.B.Nagar (for short, "the Tribunal") in M.V.O.P.No.1204 of 2010, dated 19.04.2016, the claim petitioner/injured preferred the present Appeal seeking enhancement of compensation amount.

2. For the sake of convenience, the parties hereinafter be referred as they were arrayed before the Tribunal.

3. The brief facts of the case are that the claim petitioner/injured filed a petition under Section 166 of the Motor Vehicles Act, 1988, claiming compensation of Rs.15,00,000/- from the respondent Nos.1 & 2 for the injuries sustained by him in a road accident that occurred on 06.06.2010 at about 11.00 p.m. at Muthyalammagudem of Kattangur, Nalgonda District.. It is stated by the petitioner/injured that on 06.06.2010 at about 11.00 p.m., when the petitioner/injured was proceeding along with others in a TATA Indica Car bearing No.AP-29K-1765 from L.B.Nagar to Khammam and when reached Muthyalammagudem of Kattangur, Nalgonda district, a Lorry bearing No.AP-29TA-1497 driven by its driver in a rash and negligent manner at high speed, while

overtaking another vehicle, gave dash to the Indica Car bearing No.AP-29K-1765, due to which the petitioner sustained fracture injuries viz., segmental both bones left forearm, dislocation of right hip, mandible fracture maxial fractures, head injury and other multiple injuries throughout the body. Immediately after the accident, he was shifted to Kamineni Hospital, Narketpally intitially and later shifted to Mamatha Hospital, Khammam, where he was operated for Head injury and on the advice of the Doctors therein, he was again shifted to Kamineni Hospital, L.B.Nagar, where the Hospital authorities demanded to deposit an amount of Rs.3,00,000/- immediately. But, due to financial stringency, he could not deposit the same. It is further stated by the petitioner/injured that his wife is working as Conductor in APSRTC and as per the advice of Doctors of APSRTC Hospital, he was shifted to Image Hospital, Ameerpet, where he was admitted as inpatient and was operated and is still undergoing treatment and the Doctors advised 3 more operations to be performed on him and hence, he incurred more than a sum of Rs.2,00,000/-towards medical expenses. The finding of the Doctors is that the petitioner is unfit for the post of mechanic and other works as the fractures and injuries sustained by him are very serious and he became disabled.

4. Based on a complaint, Police of Kattangur Police Station, Nalgonda District, registered a case in Crime No.80 of 2010 under Sections 304-A and 337 of IPC. It is stated by the petitioner/injured that as on the date of accident, he was aged 30 years and was working as a Mechanic in RTC under contract Labour and earning an amount of Rs.10,000/- per month from APSRTC through the Contractor. As the Doctors opined that if the petitioner forcibly attends to any work, there is a chance for fits and other problems on account of Head injury and other multiple injuries sustained by him, he is declared as unfit to do any job. As the petitioner/injured sustained loss of earnings @ 100%, became dependant and may incur atleast Rs.5,000/- per month till his end towards medical expenditure, he filed claim petition seeking compensation of Rs.15,00,000/- against Respondent Nos.1 & 2.

5. Respondent No.1, owner of the crime Lorry bearing No.AP-29-TA-1497, remained ex-parte. Respondent No.2/Insurance Company filed its counter denying the averments made in the claim petition including, involvement of crime lorry, rash and negligence on part of the driver of lorry, age, income, health condition of the petitioner, occurrence of accident, injuries sustained by the petitioner, treatment undergone by the petitioner and incurring of medical expenditure. It also contended that the

accident took place due to gross negligence on part of the rider of TATA Indica Car bearing No.AP-29K-1765 in which the petitioner was travelling a the time of accident. It also denied that the driver of the crime vehicle is having valid and subsisting driving license t drive the crime vehicle and the vehicle was roadworthy to ply and further contended that the claim of compensation is excess and exorbitant and hence, prayed to dismiss the claim against it.

6. Based on the pleadings made by both the parties, the learned Tribunal had framed the following issues:-

(i) *Whether the pleaded accident occurred resulting injuries to the petitioner. If so, was due to the fault of the driver of the TATA Lorry baring No.AP-29TA-1497 of the petitioner and if both are responsible, what is the responsibility of each?*

(ii) *Whether the TATA lorry in question belongs to respondent No.1 and stood insured with respondent No.2 and if so, whether the policy covers the risk of the petitioner?*

(iii) *Whether the petitioner is entitled to compensation and if so, to what amont and what is the liability of respondet Nos.1 & 2?*

(iv) *To what relief?*

7. Before the Tribunal, the petitioner/injured, in order to substantiate his claim, was examined himself as PW1 and also got examined PWs 2 & 3 and got marked Exs.A1 to A26 on his behalf. On behalf of Respondent No.2/Insurance Company, no oral or documentary evidence was adduced.

8. After considering the oral and documentary evidence and also the written arguments submitted by the petitioner, the learned Tribunal had partly-allowed the claim petition of the petitioner by awarding compensation of Rs.7,67,000/- along with interest @ 7.5% per annum from the date of petition till the date of deposit payable by both the Respondent Nos.1 & 2 jointly and severally. Being not satisfied with the said compensation amount, the petitioner/injured preferred the present Appeal seeking enhancement of the compensation amount.

9. Heard Sri Jagathpal Reddy Kasi Reddy, learned counsel for the appellant/injured and Sri A.Ramakrishna Reddy, learned counsel for 2nd respondent/Insurance Company. Perused the record.

10. The contentions of the learned Counsel for appellant/injured are that the learned Tribunal ought to have considered the income of the injured @ Rs.10,000/- per month and loss of earning capacity @ 100%. He also contended that the learned Tribunal failed to award compensation towards medical bills and erred in considering the multiplier as 17 instead of 18 and also failed to award compensation under the head of treatment and medical expenses, damage to clothing, loss of amenities in life, loss of marital life, continuance of permanent disability and future

medical expenditure and hence, prayed to allow the Appeal by enhancing the compensation amount.

11. On the other hand, learned counsel for respondent No.2/Insurance Company contended that the learned Tribunal, after considering all the aspects, had awarded adequate compensation and interference of this Court is not necessary.

12. Now the point that emerges for determination is ,

(i). Whether the order passed by the learned Tribunal requires interference of this Court?

POINT:-

13. A perusal of the record shows that the petitioner/injured himself was examined as PW1 and reiterated the contents of the claim petition and deposed about the manner of accident and injuries sustained by him. He also got examined PWs 2 to 5 on his behalf and got marked Exs.A1 to A26. Ex.A1-FIR shows that Police of Kattangur Police Station, Nalgonda District, registered a case in Crime No.80 of 2010 under Sections 304-A and 337 of IPC, conducted investigation and filed charge sheet against the driver of crime TATA lorry bearing No.AP-29TA-1497 under Ex.A2. Ex.A3 is the Medico Legal Case record issued by Kamineni Institute of Medical Sciences, Narketpally, Nalgonda District. Ex.A4 is the MLC record issued by Image Hospitals, Ameerpet, Hyderabad.

Ex.A5 is the Medical certificate issued by Mamatha Hospital, Khammam. Ex.A6 is the Discharge Summary issued by Image Hospital. Exs.A7 to A10 are the discharge records issued by NIMS Hospital. Ex.A11 are the prescriptions. Ex.A12 is the Billing statement issued by Mamata Hospital, Khammam. Ex.A13 are the medical bills. Ex.A14 is the CT Brain Plain report issued by Mamata Hospital, Khammam. Ex.A15 is the estimation given by Image Hospitals, Ameerpet, Hyderabad. Ex.A16 is the Provisional National Trade Certificate issued by the Department of Employment and Training. Ex.A17 is the Certificate issued to the petitioner by Boys Town Industrial Training Centre. Ex.A18 is the Certificate issued to the petitioner by Mahindra Automotive Sector. Ex.A19 is the Skill Certificate issued to the petitioner by Mahindra and Mahindra Lt. Automotive Sector, Zaheerabad. Ex.A20 are the X-rays. Ex.A21 is the Disability Certificate issued by the Medical Board of NIMS Hospital showing the extent of disability as 50%. Ex.A22 are the photographs showing the disability of the petitioner/injured. Ex.A23 is the copy of Secondary School Certificate issued by the Board of Secondary Education, Andhra Pradesh. Ex.A24 is the Aadhar card of the father of the petitioner. Ex.A25 is the Household card of the petitioners. Ex.A26 is the Caste certificate issued by the Mandal Revenue Officer of Khammam District.

14. In order to prove the injuries sustained by the petitioner/injured, he got examined the Doctor who treated him. PW2-Orthopaedic Surgeon working in NIMS Hospital deposed in his evidence that the petitioner came to their Hospital with an alleged history of road traffic accident and admitted as inpatient from 30.10.2010 to 13.12.2010 for the injuries of "one and half year old neglected posterior dislocation of right hip with fast drop and infected non-union fracture both bones left forearm with wrist-drop." He further stated that the petitioner was operated on 01.05.2012 for replacement of right hip joint and was discharged on 14.05.2012 and the injuries sustained to him are grievous in nature and assessed his disability @ 50% which is permanent in nature.

15. PW3, Duty Medical Officer, Image Hospital, deposed in his evidence that the petitioner was admitted in their Hospital with multiple injuries suffered in road accident and was treated as inpatient from 17.06.2010 to 08.07.2010 and was operated on 22.06.2010 and 23.06.2010.

16. Though PWs 1 to 3 were cross-examined by the Insurance Company, nothing worthwhile was elicited to disbelieve their testimony. Thus, from the evidence of PWs1 to 3 coupled with the documentary evidence marked under Exs.A1 to A15 and Ex.A21, it

is clearly established that the petitioner sustained grievous multiple injuries in the motor vehicle accident that occurred due to the rash and negligent driving of the driver of crime vehicle i.e,. Lorry bearing No.AP-29TA-1497, which finding of the Tribunal attains finality and requires no interference by this Court.

17. Coming to the quantum of compensation, as the petitioner failed to prove his job and income, the learned Tribunal, taking into consideration that the petitioner is a skilled worker, fixed his monthly earnings @ Rs.6,000/-, considered disability @ 50% by relying upon the evidence of PW2 and Ex.A21- Disability Certificate, applied relevant multiplier and calculated the loss of future earnings on account of permanent disability which arrived @ Rs.6,12,000/-. Apart from this, the learned Tribunal also granted certain amounts under various heads which are mentioned below:-

S.No.	Name of the Head	Amount awarded by Tribunal
1.	Pain and suffering	Rs.1,00,000/-
2.	Attendant charges	Rs.20,000/-
3.	Extra nourishment	Rs.15,000/-
4.	Loss of future earnings	Rs.6,12,000/-
5.	Transport charges	Rs.20,000/-

18. The learned Tribunal awarded a sum of Rs.7,67,000/- towards compensation to the petitioner/injured. Being not satisfied with the said compensation, the appellant/injured is before this Court by way of the present Appeal.

19. The first contention of the learned counsel for the appellant/injured in the present Appeal is that the learned Tribunal ought to have considered the income of the injured @ Rs.10,000/- per month and loss of earning capacity @ 100%. In this regard, it is pertinent to state that though the appellant/injured contended that he was employed under a contractor as a Mechanic in APSRTC and drawing salary of Rs.10,000/- per month, but he failed to produce any documentary proof to that effect. Instead, he filed the certificates issued by the Industrial Training Centre and Mahendra Automatic Sector showing that he is well experienced in total assembly of Mahindra 3 wheeler, glass fitment, door fitment and alignment, head lining, instrument panel fitment, Harness fitment and connection, Wiper fitment, Brake and clutch connections, rectification and replacements and had successfully completed training in Fitter Trade.

20. Hence, this Court, taking into consideration the above said certificates, hereby come to a conclusion that the petitioner is a

skilled worker and hereby fix his monthly income @ Rs.6,500/- by interfering with the finding of the learned Tribunal and calculate the compensation which is detailed as under:-

S.No.	**Name of the Head**	**Amount awarded by this Court**
1.	Monthly income	Rs.6,500/-
2.	Annual income	Rs.78,000/-
3.	Loss of future earnings	Rs.6,63,000/- (Rs.96,000/-x 50% x 17)

21. In addition to this, the learned Tribunal had also awarded a sum of Rs.1,00,000/- towards pain and suffering, Rs.20,000/- towards attendant charges, Rs.15,000/- towards extra nourishment and Rs.20,000 towards transport charges, which this Court finds reasonable and is not inclined to interfere with the same. Hence, upon calculating the said amounts, the total compensation to which the appellant/injured is entitled to comes to **Rs.8,18,000/-**.

22. It is also contended by the learned counsel for the appellant/injured that the Court below failed to award compensation under the heads of treatment and medical expenses.

23. In this connection, it is pertinent to refer to the cross-examination of PW1 wherein he deposed that his wife is working as a permanent employee in APSRTC and he took treatment in various Hospitals through the reference of APSRTC Hospital. He also categorically admitted that the inpatient bills will be paid by APSRTC. Furthermore, the bills filed under Exs.A12 and A13 do not disclose that they are born by him personally and are not reimbursed by APSRTC. Hence, this Court is of the considered view that the petitioner is not entitled for any amount towards medical expenditure.

24. In the result, M.A.C.M.A.No.478 of 2017 filed by the appellant/injured is partly allowed by enhancing the compensation awarded by the Tribunal from Rs.7,67,000/- to Rs.8,18,000/-. The enhanced compensation amount shall carry interest@ 7.5% per annum from the date of petition till the date of realization payable by both the respondent Nos.1 & 2 jointly and severally within a period of two months from the date of receipt of a copy of this order. Upon such deposit, the appellant/injured is entitled to withdraw the same without furnishing any security. There shall be no order as to costs.

25. Miscellaneous applications, if any, pending shall stand closed.

Sd/- A.SREENIVASA REDDY
ASSISTANT REGISTRAR

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SECTION OFFICER

To

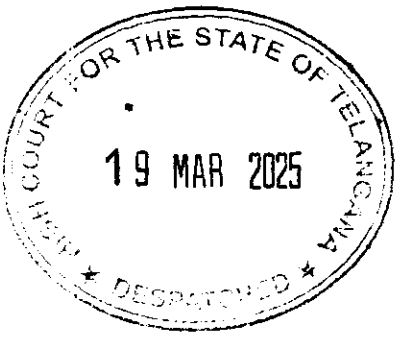
1. The Chairman, Motor Accidents Claims Tribunal-cum-VIII Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar. (With Records)
2. One CC to SRI. JAGATHPAL REDDY KASI REDDY, Advocate [OPUC]
3. One CC to SRI. A. RAMA KRISHNA REDDY, Advocate [OPUC]
4. Two CD Copies

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HIGH COURT
DATED: 17/12/2024

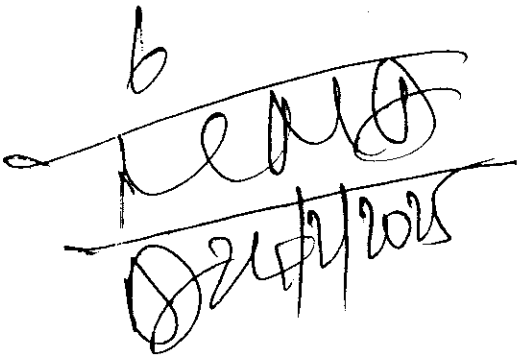
JUDGMENT+DECREE (2 Drafts)

MACMA.No.478 of 2017



PARTLY ALLOWING THE MACMA

WITHOUT COSTS



IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

TUESDAY, THE SEVENTEENTH DAY OF DECEMBER TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SMT JUSTICE M.G.PRIYADARSINI

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 478 OF 2017

Between:

A Ravi Babu @ Ravi Kumar, S/o Pullaiah, Aged about 35 years, occ: Mechanic in RTC, Working under contract Labour, C/o K.Madhusudhan Rao R/o H.No. 4-7-219/B, Opp. S.P.Office, Saketh Nagar, Vikarabad, Ranga Reddy District.

...APPELLANT/PETITIONER

AND

1. B. Anjaiah, S/o B.Pentaiah, Aged Major, Occ: Business, R/o C-173, NGOs Colony, Vanasthali puram, Ranga Reddy District, A.P.
2. M/s. Royal Sundarma Alliance Insurance Co Ltd, Rep by its Divisional Manager, is Controlling Office, for the M.V.Cases, office situated at Jewel Pavani Towers, A Block, 5th Floor, Rajbhavan Road, Somajiguda, Hyderabad -500 082.

...RESPONDENTS/ RESPONDENTS

Appeal filed under Section 173 of the Motor Vehicles Act against the Judgment and Decree passed in O.P.No. 1204 of 2010 dated 19.04.2016 on the file of the Court of the VIII Additional District and Sessions Judge, Ranga Reddy District, at L.B.Nagar.

This appeal coming on for hearing and upon perusing the grounds of appeal, the Judgment and Decree of the Court below and the material papers in the MVOP and upon hearing the arguments of SRI. JAGATHPAL REDDY KASI REDDY, Advocate for the appellant and of SRI A RAMA KRISHNA REDDY, Advocate for the Respondent No.2.

This Court doth Order and Decree as follows"

1. That the MACMA filed by the appellant/injured be and hereby is aprtly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.7,67,000/- to Rs.8,18,000/- (Rupees Eight Lakhs Eighteen thousand only);
2. That the enhanced compensation amount shall carry interest @ 7.5% per annum from the date of petition till the date of realization payable by both the

respondent Nos.1 and 2 jointly and severally within a period of two months from the date of receipt of a copy of this order;

3. That upon such deposit, the appellant/injured be and hereby is entitled to withdraw the same without furnishing any security;
4. That there shall be no order as to costs in this appeal.

Sd/- A.SREENIVASA REDDY
ASSISTANT REGISTRAR

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SECTION OFFICER

To

1. The Chairman, Motor Accidents Claims Tribunal-cum-VIII Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar.
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HIGH COURT
DATED: 17/12/2024

DECREE

MACMA.No.478 of 2017

PARTLY ALLOWING THE MACMA

WITHOUT COSTS

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