IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

MONDAY, THE TWENTY THIRD DAY OF DECEMBER TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SMT JUSTICE M.G.PRIYADARSINI

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 34 OF 2017

Appeal filed Under Section 173 of Motor Vehicles Act,1988 against the Judgment and decree in O.P.No.152 of 2015 dated.20.09.2016 on the file of the Court of the Chairman, Motor Accident Claims Tribunal-cum- III Additional District Judge, Asifabad.

Between:

1. Maidam Pujitha, D/o. Ashanna, Age 14 years, Occ Student (minor), Under the guardian ship of her natural Father/guardian.
2. Maidam Ashanna, S/o. Malliah, Age 43 years, Occ Private Employee, R/o. H.No. 1-13-44/1, Kapu-wada, Kaghaznagar, Adilabad District.

...Appellant/Petitioner

AND

1. P Nagesh Babu, S/o. Rama Rao, Age 49 years, Occ Private Employee and Owner of Crime vehicle, R/o. Near Bus stand, Narayanapur Village, RIM Rebbena, Adilabad District.
2. The Oriental Insurance Company Limited,, Represented by its Divisional Manager, Dhanraj Plaza, IInd Floor, M.G. Road, Chandrapur-442 402 (MS).

...Respondents/Respondents

Counsel for the Appellants : Sri S Surender Reddy

Counsel for the Respondent No.2 : Ms. I Maamu Vani

Counsel for the Respondent No.1 : _ _ _

The Court delivered the following: Judgment

HONOURABLE SMT.JUSTICE M.G.PRIYADARSINI

M.A.C.M.A.No.34 OF 2017

JUDGMENT:

Aggrieved by the dismissal order dated 20.09.2016 (hereinafter will be referred as 'impugned judgment') passed by the Chairman, Motor Accidents Claims Tribunal – cum – III Additional District Judge, Asifabad (hereinafter will be referred as 'Tribunal") in O.P.No.152 of 2015, the appellants/claimants has filed the present Appeal to set aside the judgment and seeks just and reasonable compensation for the injuries sustained by the appellant No.1/claimant No.1.

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 as can be seen from the record are as under:

a) The claimants have filed claim petition under Section 166 of Motor Vehicles Act, 1988 claiming compensation of Rs.1,00,000/-(Rupees One Lakh only) from the respondent Nos.1 and 2 for the injuries sustained by claimant No.1 in a motor vehicle accident that occurred on 02.03.2013. The claimant No. 1 is a minor being represented by claimant No. 2,

father/guardian of claimant No.1. According to the claimant No.2, claimant No.1/injured was a school student and on 02.03.2013 at about 4:30 PM, while she was proceeding from Arunodaya School to her house at Kaghaznagar by walk and when she reached Kapuwada, Kaghaznagar, suddenly driver of Motorcycle bearing No. AP.01.M.0119 drove the said vehicle in rash and negligent manner with high speed and dashed to her; as a result, the claimant No.1 fell down and sustained fracture of left Radius and other injuries all over the body. Immediately she was shifted to Government Hospital, Sirpur-T and thereafter to Vijaya Hospital, Kaghaznagar, where she was treated as inpatient.

b) Based on the complaint, the Police, Kaghaznagar Town registered a case in First Information Report (FIR) No.36 of 2013 for the offence under Section 337 of the Indian Penal Code, 1806 against the driver of crime vehicle bearing No.AP.01.M.0119 and after investigation charge sheet was filed.

c) According to the claimant, she is a school student and aged about 11 years at the time of accident and due to the said accident she suffered fracture injuries and incurred huge medical expenses towards treatment at various private hospitals. Further, due to the accident she could not attend

classes and still having acute pain due to multiple injuries all over the body. Therefore, the claimants claimed compensation of Rs.1,00,000/-(Rupees One Lakh only) under different heads against the respondent Nos. 1 & 2, who are the owner and insurer of the crime vehicle bearing No. AP.01.M.0119, for the injuries suffered by claimant No.1.

4. Before the learned Tribunal, the respondent No.1, owner of the crime vehicle, remained *exparte* and whereas, the respondent No. 2/Insurance Company filed counter denying the averments of the claim petition and the manner in which the accident occurred, including the age and avocation. It was further contended that the driver of the alleged crime vehicle was not having a valid driving license and valid Insurance at the time of accident and it is violation of condition stipulated in the insurance policy. Therefore, the Insurance Company assailed the liability to pay any compensation amount. It was also contended that the amount claimed is excessive and exorbitant and prayed for dismissal of the case against them.

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

a) Whether there was any accident on 02.03.2013 at about 16:30 hours near Kapuwada, Kaghaznagar, as alleged by the petitioner due to rash and negligent

driving by the driver of Motor Cycle bearing No AP.01.M.0119, respondent or whether there was any contributory negligence on the part of the petitioner?

b) Whether the petitioner suffered injuries and disability as alleged?

c) Whether there was any insurance coverage for the rider of Motor Cycle bearing No. AP.01.M.0119 and is so, does the policy cover the risk of petitioner and If so, was there any breach of policy condition alleged by the respondent No.2?

d) Whether the petitioner is entitled to any compensation if so to what extent and against whom?

e) To what relief?

6. On behalf of the claimants, claimant No. 2 got examined himself as PW1 and got marked Exs.A1 to A8. On behalf of the respondent No.2, none were examined and no documents were marked.

7. The learned Tribunal after considering the rival contentions dismissed the claim petition. Aggrieved by the impugned judgment, the appellants/claimants preferred the present Appeal to set aside the impugned judgment and grant just and reasonable compensation.

8. Heard both sides and perused the entire material available on record including the grounds of Appeal.

9. The main contention of the learned counsel for claimants is that though claimants proved their case by adducing cogent evidence apart from relying on the documents under Exs.A-1 to A-8, the learned Tribunal without considering the same has erroneously dismissed the claim petition. It was further contended that in absence of any objection or adducing any rebuttal evidence on behalf of respondent No. 2 to disprove the contents of the claim petition, the learned Tribunal ought to have considered the evidence of the petitioner but erred in holding that the petitioners failed to establish the manner of accident and injuries sustained by the petitioner. Hence, prayed to grant just and reasonable compensation by considering the injuries sustained by the claimant No.1 and medical expenses incurred by the claimant No.2 due to the said accident.

10. Per contra, the learned Standing Counsel for Respondent No.2/Insurance Company has contended that the learned Tribunal has rightly dismissed the claim petition and the same needs no interference by this Court.

11. Now the point for consideration is that:

1) *Whether the impugned Judgment and Decree passed by the learned Tribunal calls for interference by this court?*

2) *Whether the appellants/claimants are entitled for any compensation?*

12. **Point No.1**: The claimant No.2, who was examined as PW-1 has reiterated the contents of the claim petition and the manner in which the accident occurred by relying upon Ex.A1 (FIR), A2 (Charge-sheet) to prove that the accident occurred due to rash and negligent driving of the motorcycle bearing No. AP.01.M.0119 and the injuries sustained by his minor daughter. Admittedly, there is no dispute that the insurance policy under Ex.A-6 was subsisting as on the date of accident and respondent No.2 has also not disputed while marking the document. There is also no dispute with regard to the relationship between the injured i.e., claimant No. 1 and claimant No.2, who is the father/guardian of the minor child.

13. The learned Tribunal disregarded Ex. A-1 FIR copy and A-2 Charge Sheet and drawn an inference that claimants failed to prove the manner of accident as these documents won't suffice to prove the case. It is quite clear and settled principles of law that First Information Report is often reported and lodged by police authorities immediately after a incident occurs and plays a pivotal role in the chain of investigation and the police authorities after thorough investigation file Charge sheet, which

is *per se* a crucial evidence to establish that the alleged crime vehicle was involved in the accident or not. On perusal of documents under Exs.A-1 and A-2, it is clear that the accident occurred due to rash and negligence of the crime vehicle and respondent No.1 owner of the crime vehicle also admitted the manner of accident and involvement of his vehicle. Furthermore, in the absence of any rebuttal evidence on behalf of respondent No.1 and 2 to disprove the version of appellants/claimants and since nothing much was elicited in the cross-examination of PW1, the testimony of PW1 cannot be brushed aside in toto. Therefore, merely because there is no eyewitness to the incident or lack of evidence to prove rash and negligent riding of motor cycle, it cannot be construed that accident has not occurred. Thus, this Court is of the considered opinion that the accident occurred due to rash and negligence of the crime vehicle, hence, this point is answered accordingly in favour of appellants/claimants.

14. **Point No.2**: Now coming to the quantum of compensation, claimant No.1 sustained left radius level third fracture injury, which is grievous in nature as per Ex.A-3 wound certificate. On perusal of above documents and considering the injuries sustained by the claimant, this Court is

of the considered opinion that an amount of Rs.25,000/- towards one fracture injury seems to be just and reasonable. Considering the age and injured being a minor, a sum of Rs.20,000/- is awarded towards pain and sufferings. Further, the appellants/claimants also filed medical prescriptions and bunch of medical bills under Exs.A-4 and A-5. Considering the same, a sum of Rs.10,000/- is granted towards medical expenses. Under the head of transportation, attendant charges and extra nourishment a sum of Rs.10,000/- is awarded.

15. Thus, in all, the appellant/claimant No.1 is entitled for the compensation under various heads, as follows:

Sl.No.	Name of the head	Compensation entitled by the claimant
1.	Fracture Injury	25,000/-
2.	Pain and sufferance	20,000/-
3.	Medical expenses and hospital charges	10,000/-
4.	Transportation, extra nourishment and attendant charges	10,000/-
	Total	65,000/-

16. In the result, the Appeal is allowed in part by awarding compensation of Rs.65,000/- which shall carry interest at 7.5% per annum from the date of filing of the petition till the date of

realization payable by the respondents jointly and severally. The respondents are directed to deposit the compensation amount within a period of two months from the date of receipt of a copy of this judgment. On such deposit, since the claimant No.1 is minor, the compensation awarded to her shall be deposited in any nationalized bank until she attains the age of majority. The claimant No.2 being the natural guardian (father) of claimant No.2 is entitled to withdraw the interest accrued on the deposited amount to meet the day to day expenses of the minor. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

SD/- T TIRUMALA DEVI,
ASSISTANT REGISTRAR.

//TRUE COPY//

SECTION OFFICER

To,

1. The Chairman, Motor Accident Claims Tribunal-cum- III Additional District Judge, Asifabad(with records, if any)
2. One CC to Sri S Surender Reddy, Advocate [OPUC]
3. One CC to Ms. I Maamu Vani, [OPUC]
4. Two CD Copies

ADK

HIGH COURT

DATED:23/12/2024



JUDGMENT+DECREE

2 DRAFTS

MACMA.No.34 of 2017

PARTLY ALLOWING THE MACMA
WITHOUT COSTS

(6)
12/02/25

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

MONDAY, THE TWENTY THIRD DAY OF DECEMBER TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SMT JUSTICE M.G.PRIYADARSINI

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2. Maidam Ashanna, S/o. Malliah, Age 43 years, Occ Private Employee, R/o. H.No. 1-13-44/1, Kapu-wada, Kaghaznagar, Adilabad District.

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Appeal filed Under Section 173 of Motor Vehicles Act,1988 against the Judgment and decree in O.P.No.152 of 2015 dated.20.09.2016 on the file of the Court of the Chairman, Motor Accident Claims Tribunal-cum- III Additional District Judge, Asifabad.

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 S Surender Reddy, Advocate for the Appellants and of Ms. I Maamu Vani, Advocate for the Respondent No.2 and none appeared for the respondent No.1.

This Court doth Order and Decree as follows:

1. That the Motor Accident Civil Miscellaneous Appeal be and hereby is Partly allowed by awarding compensation of Rs.65,000/- which shall carry interest at 7.5% per annum from the date of filing of the petition till the date of realization payable by the respondents jointly and severally;

2. That the respondents are directed to deposit the compensation amount within a period of two months from the date of receipt of a copy of this judgment;
3. That on such deposit, since the claimant No.1 is minor, the compensation awarded to her shall be deposited in any nationalized bank until she attains the age of majority;
4. That the claimant No.2 being the natural guardian (father) of claimant No.2 is entitled to withdraw the interest accrued on the deposited amount to meet the day to day expenses of the minor;
5. That save as aforesaid, the decree of the Lower Court shall stands confirmed in all other respects; and
6. That there shall be no order as to costs in this appeal.

SD/- T TIRUMALA DEVI,
ASSISTANT REGISTRAR.

//TRUE COPY//

SECTION OFFICER

To,

1. The Chairman, Motor Accident Claims Tribunal-cum- III Additional District Judge, Asifabad
2. Two CD Copies

ADK

HIGH COURT

DATED:23/12/2024

DECREE

MACMA.No.34 of 2017

PARTLY ALLOWING THE MACMA WITHOUT COSTS

(4)
12/02/25