

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

WEDNESDAY, THE SIXTEENTH DAY OF JULY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SMT JUSTICE RENUKA YARA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 326 OF 2023

Appeal filed under Section 173 of M.V.Act, against the Judgment and Decree dated 22.11.2022 passed in O.P No. 296 of 2019 on the file of the Court of the Chairman, Motor Accidents Claims Tribunal I Addl. District Judge, Nizamabad.

Between:

Dhandu Mallaih @ Nadipi Mallaiah, S/o. Beerappa @ Pedda Beerappa, Aged 58 years, Occ. Milk Vending And Shepherd, R/o. Arsapally, Nizamabad (M) and Nizamabad District.

...APPELLANT/CLAIMANT

AND

1. Abdul Azhar, S/o. Abdul Lateef, Aged Major, Owner of Lorry Bearing No TS-16-UB-5200, R/o. H.No.9-17-378, Hashmi Colony, Nizamabad-503 001.
2. The New India Assurance Co Ltd, Rep. By its Divisional Manager, Divisional Office, APSFC Building, I Floor, Subhashnagar, Opp. Z.P. Office, Nizamabad-503 002.

(Respondent No.1 not necessary party)

...RESPONDENTS/RESPONDENTS

Counsel for the Appellant : SRI. AMRUTHA SANJEEVA

Counsel for the Respondent No.1 : -

Counsel for the Respondent No.2 : SRI SATYANAND RAO

The Court made the following: JUDGMENT

THE HON'BLE SMT. JUSTICE RENUKA YARA

M.A.C.M.A.No.326 OF 2023

JUDGMENT:

This is an appeal preferred by the appellant/claimant aggrieved by the order, dated 22.11.2022, passed in M.V.O.P.No.296 of 2019 by the learned Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, Nizamabad (for short, 'the Tribunal').

2. Heard both sides. Perused the record.
3. The brief facts of the case are that the appellant filed the claim petition for Rs.2,00,000/- as he met with an accident on 17.09.2018 while he was going on TVS XL No.TS-16-EH-3251 from Arsapally to Nizamabad and at 6:30 P.M. when the motorcycle crossed Arsapally railway gate, one lorry bearing No.TS-16-UB-5200 driven by its driver in a rash and negligent manner dashed the TVS XL moped from back side resulting in accident and injuries to the appellant. In the accident, the appellant sustained fracture of right hand, right leg and right scapula and other injuries all over the body.
4. The appellant/claimant got examined P.Ws.1 and 2 and got marked Exs.A1 to A16. Respondent No.2 got examined R.W.1 and got marked Ex.B1-copy of policy.

5. Upon examining the oral and documentary evidence, the Tribunal held that the accident occurred due to rash and negligent driving of the driver of the offending lorry and therefore, the respondents are held liable to pay compensation. Further, upon considering the evidence of P.Ws.1 and 2, compensation of Rs.1,20,000/- with interest was awarded. Aggrieved by the same, the present appeal is preferred.

6. In grounds of appeal, the appellant contended that the Tribunal failed to consider the income of the appellant at Rs.30,000/- per month as he was milk vendor and shepherd. Further, the bills of Rukmini Hospital have not been considered and therefore, sought enhancement.

7. During arguments in appeal, learned counsel for the appellant contended that the Tribunal failed to consider the bills marked under Exs.A9 to A13, more particularly, Ex.A11-hospital bill showing payment of Rs.74,320/-. Further, loss of earnings is not awarded and meager amount is awarded towards transportation.

8. In response, learned counsel for the respondents argued that the Tribunal has considered the evidence on record and that there is no error in passing of the award and therefore, prayed to confirm the same.

9. A perusal of the record shows that the Tribunal has awarded Rs.50,000/- towards grievous injury and Rs.25,000/- towards simple injuries and the same need not be interfered with. Further, an amount of

Rs.30,000/- is awarded towards pain and suffering and Rs.10,000/- towards extra nourishment and Rs.5,000/- towards transportation. There is payment of compensation twice under the heads of grievous injury and pain and suffering. Therefore, this Court does not see any reason to interfere with the payments under various heads.

10. As contended by the appellant, the Tribunal did not consider payment of loss of earnings as a milk vendor and shepherd. Since there is no proof about income of the appellant as a milk vendor and shepherd, the notional income is taken at Rs.10,000/- per month and an amount of Rs.50,000/- is awarded for 5 months of time period which may be taken for healing of wound and resuming normal work.

11. Further, a comparison of the oral evidence of P.W.2-Dr.B.Gavaskar and Exs.P9 to P13 shows that the Tribunal has arrived at an erroneous finding that the nature of injuries under Ex.A3 and the treatment bills pertaining to Exs.A5 to A13 are not similar and therefore, the said bills are not taken into consideration. This finding of the Tribunal is clearly erroneous in view of the oral evidence adduced by P.W.2-doctor wherein he clearly deposed that the treatment given and the bills exhibited under Exs.A5 to A13 are corresponding with the injuries in Ex.A3-medical certificate. The only aspect i.e. separating Ex.A3 certificate and the treatment is that there was non-healing of the foot injury which led to ulcer and therefore, the appellant had to take treatment after a gap of 30

days. In view of the erroneous findings, there is a need to award the bills marked under Exs.A11 and A12 for Rs.74,320/- and Rs.33,864/- respectively.

12. Accordingly, the M.A.C.M.A. is allowed. The compensation awarded by the Tribunal is enhanced from Rs.1,20,000/- to Rs.2,78,184/- with interest @ 9% per annum on the enhanced compensation amount from the date of petition till the date of realization. The enhanced compensation amount shall be deposited by the respondents jointly and severally within a period of two months from the date of receipt of a copy of this Judgment. On such deposit, the appellant is entitled to withdraw the entire amount, without furnishing any security. However, the appellant is directed to pay the deficit Court-fee on the enhanced compensation. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this appeal, shall stand closed.

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SD/- MOHD. ISMAIL
DEPUTY REGISTRAR

SECTION OFFICER

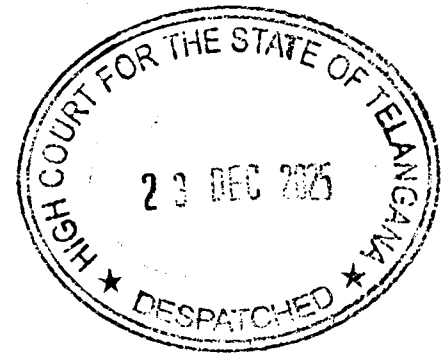
To,

1. The Chairman, Motor Accidents Claims Tribunal I Addl. District Judge, Nizamabad.
2. One CC to SRI. AMRUTHA SANJEEVA Advocate [OPUC]
3. One CC to SRI. Mr. SATYANAND RAO, Advocate [OPUC]
4. Two CD Copies

GE

HIGH COURT

DATED:16/07/2025



JUDGMENT

MACMA.No.326 of 2023

ALLOWING THE MACMA WITHOUT COSTS

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Asu
24/11/25

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(Respondent No.1 not necessary party)

...RESPONDENTS/RESPONDENTS

Appeal filed under Section 173 of M.V.Act, against the Judgment and Decree dated 22.11.2022 passed in O.P No. 296 of 2019 on the file of the Court of the Chairman, Motor Accidents Claims Tribunal I Addl. District Judge, Nizamabad.

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. AMRUTHA SANJEEVA, Advocate for the Appellant and none appeared for Respondent No.1 and SRI SATYANAND RAO, Advocate for the Respondent No.2.

This Court doth Order and Decree as follows:

1. That the Motor Accident Civil Miscellaneous Appeal be and is hereby allowed.
2. That the compensation awarded by the Tribunal be and is hereby enhanced from Rs.1,20,000/- to Rs.2,78,184/- with interest @ 9% per annum on the enhanced compensation amount from the date of petition till the date of realization.
3. That the enhanced compensation amount be and is hereby shall be deposited by the respondents jointly and severally within a period of two months from the date of receipt of a copy of this Judgment.
4. That on such deposit, the appellant be and is hereby entitled to withdraw the entire amount, without furnishing any security.
5. That the Appellant be and hereby is directed to pay the deficit Courtfee on the enhanced compensation.
6. That there shall be no order as to costs in this appeal.

//True Copy//

SD/- MOHD. ISMAIL
DEPUTY REGISTRAR

SECTION OFFICER

To

1. The Chairman, Motor Accidents Claims Tribunal I Addl. District Judge,
Nizamabad.
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HIGH COURT

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DATED:16/07/2025

DECREE

MACMA.No.326 of 2023

ALLOWING THE MACMA WITHOUT COSTS

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