IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

MONDAY, THE EIGHTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE C.V. BHASKAR REDDY

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 639 OF 2019

Between:

The Reliance General insurance Company Ltd, Rep. by its Deputy Manager (Legs), D.No. 4-3-327 to 33y, Sagar Plaza, 4th Floor, Abids, Hyderabad-500001

...Appellant/Respondent No. 2

AND

1. Kundanan Sena Kumar, S/o E Lingamaiah, 7 Aged. 30 years. Occ. Technician, R/O H.NO. 5-3-390/2/1, Hyderbasthi, Secunderabad.

...Respondents/Petitioner

2. Mr. Prasad Reddy Vennapusa, S/o V. Venkatewarulu Reddy, Aged. Major, Occ. Owner of tipper lorry bearing No. AP-05-TR-0865, R/o Plot No. 154, Nagarjuna Colony, Hasthinapuram, Vanasthalipuram, Hayathnagar, Ranga Reddy - 500 070.

3. Saga Linga Reddy, S/o S. Satti Reddy Aged. Major, Occ. Driver of the crime vehicle R/O H.No. 1-7-179/5, Kamalanagar, Kushaiguda, Keesara, R.R. District 500062

...Respondent/RESP. Nos. 1 & 2

Appeal filed under Section 173 of Motor Vehicle Act, aggrieved by the Decree and Judgment passed in M.V.O.P. No. 678 of 2015, dated 21/12/2018, on the file of the Court of the Motor Accidents Claims Tribunal-cum-I Additional Chief Judge, City Civil Court, Secunderabad.

Counsel for the Appellant : Sri. A Ramakrishna Reddy

Counsel for the Respondent No. 2 :Mr. Jagan Mohan Reddy

The Court delivered the following:

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.BHASKAR REDDY

M.A.C.M.A. No.639 of 2019

DATE: 08.12.2025

Between:

The Reliance General Insurance Company Ltd.,

.....Appellant

AND

Kundanan Sena Kumar and two others.

.Respondents

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant-Insurance Company, challenging the award and decree dated 21.12.2018 passed in M.V.O.P.No.673 of 2015 by the Motor Accident Claims Tribunal-Cum-I Additional Chief Judge, City Civil Court, Secunderabad (hereinafter referred to as "the Tribunal"), whereby the Tribunal awarded compensation of Rs.10,01,720/- together with interest @ 7.5% per annum to be payable by the owner of the vehicle and the Insurance Company for the injuries sustained by one Kundanam Sena Kumar (hereinafter referred to as "the claimant") in a motor vehicle accident

2. The brief facts of the case are that on 17.07.2015 at about 10.45 P.M., while the claimant was proceeding on motorbike bearing

No.AP-29 AA-3532 from Bowenpally to Balanagar and reached near HAL Gate-I, in front of Sudha Hotel, Balanagar, tipper lorry bearing No.AP 05 TU 0865, being driven by its driver at high speed and in a rash and negligent manner, dashed the claimant due to which he fell down and received fracture injuries and the police of Balanagar of Cyberabad registered a case in Crime No.214 of 2015 for the offence under Section 337 of IPC. The claimant filed the aforesaid claim petition claiming compensation of Rs.8,00,000/- on account of the injures received by him.

3. Before the Tribunal, the owner and driver of the crime vehicle remained *ex parte*. The appellant-Insurance Company filed counter and opposed the claim petition. The Tribunal, on appreciation of the oral and documentary evidence, assessed the disability at 35%, fixed the income at Rs.9,000/- per month, added 40% towards future prospects, applied multiplier 16, and awarded total compensation of Rs.10,01,720/- under various heads. Aggrieved by the same, the present appeal is filed by the appellant-Insurance Company.

4. Heard the submissions of the learned Standing Counsel for the appellant- insurance company and perused the record. Inspite of granting several opportunities, there is no representation for the respondents. Since the appeal is of the year 2019, the matter is heard and decided on merits on the basis of material on record.

5. The learned Standing Counsel for the appellant-Insurance Company contended that the claimant admittedly did not produce a driving licence, and therefore contributory negligence should have been inferred; that PW.2 issued a disability certificate without treating the claimant and the assessment of 35% is excessive; that the Tribunal erred in taking the income as Rs.9,000/- and adding 40% future prospects.

6. Coming to the first contention regarding driving licence, the Tribunal recorded a categorical finding, on the basis of Exs.A-1 to A-5, that the accident occurred solely due to the rash and negligent driving of the tipper lorry driver. There is no material on record to show that the absence of licence contributed in any way to the accident. Mere non-production of licence by the claimant, that cannot, by itself, establish contributory negligence. The appellant did not examine either the driver or any witness to rebut the police record. Hence the finding on negligence warrants no interference.

7. On the issue of disability, PW.2 deposed that the claimant suffered fractures of right thigh and right leg with restriction of terminal degrees of hip and knee movements, contraction deformity of the left palm, and difficulty in performing skilled work. PW.2 assessed permanent partial disability at 35% on McBride's scale. Even though PW.2 was not the treating surgeon, he examined the claimant, reviewed medical records, and issued Ex.A-10. There is no evidence

from the insurer to discredit this medical assessment. The Tribunal's acceptance of 35% disability is therefore justified.

8. The Tribunal, however, added 40% future prospects to the monthly income of Rs.9,000/-. The claimant failed to prove his stated monthly income of Rs.18,000/-. PW.3, the purported employer, admitted during cross-examination that he maintained no registers, issued no appointment letters, and had no licence for running the workshop. The Tribunal rightly rejected the claim of Rs.18,000/- and fixed notional income at Rs.9,000/- per month. But adding 40% future prospects for a self-employed person in an injury case is impermissible unless the claimant demonstrates a stable and proven income structure. In the absence of credible proof, future prospects cannot be added. Therefore, the addition of 40% future prospects is set aside. The loss of future earning capacity must be recalculated on the basis of the established income of Rs.9,000/- per month and disability at 35%, applying multiplier 16 as per the decision in ***Sarla Verma vs. Delhi Transport Corporation***[1]. Thus the compensation under the head loss of earnings comes to Rs.6,04,800/- (Rs.9,000 × 12 × 16 × 35%).

9. The remaining heads awarded by the Tribunal i.e, Rs.50,000/- for pain and suffering, Rs.75,000/- for medicines and investigations, Rs.10,000/- for transportation, and Rs.20,000/- for extra

[1](2009) 6 SCC 121

nourishment, are reasonable in view of the nature of injuries, period of treatment, and evidence produced. No interference is warranted.

10. In the result, the appeal is partly-allowed and the compensation awarded by the Tribunal is reduced from Rs.10,11,720/- to Rs.7,59,800/-. The remaining portion of the impugned award shall remain unaltered. No order as to costs.

As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

SD/- M JAWAHAR REDDY
ASSISTANT REGISTRAR

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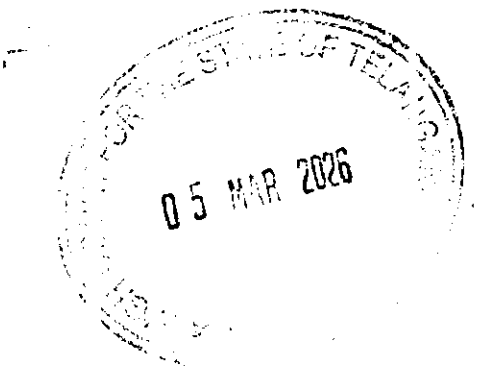
To,

1. The Motor Accidents Claims Tribunal-cum-I Additional Chief Judge, City Civil Court, Secunderabad. (With records)
2. One CC to Sri. A Ramakrishna Reddy, Advocate [OPUC
3. One CC to Mr. Jagan Mohan Reddy, Advocate [OPU 2]
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HIGH COURT

DATED:08/12/2025



JUDGMENT

MACMA.No.639 of 2019

PARTLY ALLOWING THE APPEAL

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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 argument of Sri. A Ramakrishna Reddy, Advocate for the Appellant and Mr. Jagan Mohan Reddy, Advocate for Respondent No.2.

This Court doth Order and Decree as follows:

1. That the Motor Accident Civil Miscellaneous Appeal be and is partly-allowed and the compensation awarded by the Tribunal is reduced from Rs. 10,01,720/- to Rs. 7,59,800/-;
2. That the remaining portion of the impugned award shall remain unaltered;
3. That save as aforesaid, the decree of the Tribunal shall stands confirmed in all other respects; and
4. That there shall be no order as to costs in this appeal.

SD/- M JAWAHAR REDDY
ASSISTANT REGISTRAR

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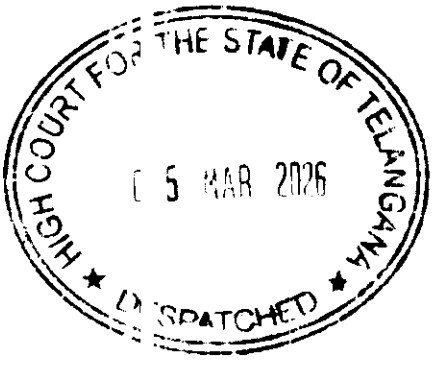
To,

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HIGH COURT

DATED:08/12/2025



DECREE

MACMA.No.639 of 2019

PARTLY ALLOWING THE APPEAL

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