IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

TUESDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE JUSTICE B.R.MADHUSUDHAN RAO

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 3580 OF 2008

Appeal filed under Section 173 of M.V.Act, against Order and Decree dated 28-01-2008 passed in OP.No. 1490 of 2004 on the file of the court of the Chairman, Motor Accident Claims Tribunal cum III Additional District Judge, Fast Track Court, Nizamabad.

Between:

Bala Showri, S/o.Luddaiah, aged 40 years, Occ: Agriculture, Milk Business etc., R/o.Ambedkar Colony, Nizamabad.

...APPELLANT

AND

1. Sri P.Kiran, S/o.Sri P.Gandhi, Aged: Major, Owner of Suzuki Samurai Motor Cycle bearing No.AP-25- G- 1236, R/o. Gunj Road, Bodhan [V & M], Nizamabad District.
2. The Oriental Insurance Company Ltd .,Nizamabad , represented by it's Branch Manager, Branch Office, Pratap Reddy Complex, Beside Hotel Mayur, P.B.No.314, Godown Road, Nizamabad.

...RESPONDENTS

Counsel for the Appellant :Mr Lakkadi Dayaker Reddy

Counsel for the Respondent No.2: Mr V DURGA

The Court delivered the following:

THE HON'BLE JUSTICE B.R.MADHUSUDHAN RAO

MACMA.No.3580 of 2008

JUDGMENT:

1. This memorandum of Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short 'MV Act') assailing the award passed by the Motor Accident Claims Tribunal (III Additional District Judge), (Fast Track Court), Nizamabad (for short 'the Tribunal'), in O.P.No.1490 of 2004 dated 28.01.2008.

2. Appellant is the petitioner and respondents are the respondents before the Tribunal.

3. Appellant - petitioner has filed petition under Sections 166(1)(a) and 163(A) of MV Act read with Rule 455 of A.P.M.V Rules, claiming compensation of Rs.2,00,000/- for the injuries sustained by him in the motor accident with motorcycle bearing No. AP-25-G-1236. Appellant has confined the O.P under Section 166(1)(a) of MV Act by filing a memo.

4.1 On 16.12.2002 the appellant - petitioner was proceeding on his scooter bearing No.AP-25-E-5294 from Kunapally village towards Nizamabad on his left side of the road, when he crossed Shakkarnagar cross road at Bodhan, the other motorcycle bearing

No.AP-25-G-1236 came in a negligent manner at high speed in opposite direction and dashed his motorcycle. Due to which he sustained grievous injuries such as fractures, he was immediately taken to Government Hospital, Bodhan where he was given first aid, thereafter he was shifted to Government Headquarters Hospital, Nizamabad and took treatment as inpatient and thereafter at Tirumala Hospital, Nizamabad, underwent operations and fixtures were implanted and he spent Rs.1,50,000/- for his treatment and medicines.

4.2 Prior to the accident appellant-petitioner was hale and healthy, was aged about 40 years, was earning Rs.15,000/- per month by doing agriculture and milk business and contributing the same for the welfare of his family. Due to the accident he could not attend the work, thereby he lost his income and prayed to award compensation of Rs.2,00,000/-.

5.1 Respondent No.1 remained ex parte before the Tribunal.

5.2 Respondent No.2 filed counter and contended that the driver of the crime vehicle do not possess valid driving license as on the date of accident, the amount claimed is excessive and prayed to dismiss the same.

6. The learned Tribunal has framed the following issues:

1. Whether the accident occurred on 16-12-2002 due to rash and negligent driving of motor cycle bearing No.AP2[illegible]-3-1236 driven by its driver as per S.166 of MV Act?
2. Whether the petitioner is entitled to compensation? If so to what amount and from whom?
3. To what relief?

7. Appellant - petitioner is examined as PW1 got marked Exs.A1 to A4. Respondent No.2 did not adduce any evidence but got marked Ex.B1-policy.

8. The learned Tribunal after analyzing the evidence of the appellant-petitioner coupled with the documents marked thereon with that of Ex.B1, awarded a sum of Rs.6,700/- towards compensation payable by the respondents Nos.1 and 2 jointly and severally with costs and interest at the rate of 7.5% per annum from the date of petition till the date of deposit.

9. Learned counsel for the appellant - petitioner submits that the learned Tribunal ought to have considered the grievousness of the multiple injuries suffered by the appellant-petitioner and ought to have granted the whole amount incurred for his treatment. The Tribunal has erred in taking Rs.60/- per day as earnings of the appellant - petitioner. The Tribunal ought to have considered granting of compensation for future treatment and the interest ought to have been 18% per annum instead of 7.5% per annum and prayed to allow the appeal.

10. Notice issued to respondent No.1 in the appeal is served on 22.12.2008 and non-appeared for him.

11. Learned counsel for respondent No.2 submits that the learned Tribunal has properly appreciated the contentions raised by the parties, rightly awarded the compensation, no interference is called for and prayed to dismiss the appeal.

12. Heard learned counsel on record and perused the material.

13. Now the points for consideration are:

(i) Whether the compensation awarded by the learned Tribunal is just and proper?

(ii) Whether the award passed by the learned Tribunal in OP.No.1490 of 2004 dated 28.01.2008 suffers from any perversity or illegality. If so, does it require interference of this Court?

POINT NOs.1 AND 2:

14. Appellant – petitioner has questioned the quantum in the present appeal. There is no dispute with regard to the manner in which the accident has taken place.

15. It is the case of the appellant - petitioner that immediately after the accident he was taken to Government Hospital, Bodhan where he was given first aid and thereafter referred to Government

Headquarters Hospital, Nizamabad where he was treated as inpatient and referred to Hyderabad for better treatment, but he took treatment at Thirumala Hospital, Nizamabad, where he was treated as inpatient and underwent major operations to right hand, left leg and steel rods were inserted. After discharge from the hospital, he is continuing his follow up treatment under a private Orthopaedic Surgeons and that he has incurred more than a sum of Rs.1,50,000/-. No medical records are filed to show that the appellant - petitioner has incurred an amount of Rs 1,50,000/-. So also he has not filed any document to show that he has taken treatment in Nizamabad Hospital and continued to take the same.

16. It is stated in the petition that the appellant-petitioner is doing agriculture and milk business and earning Rs.12,000/- per month. Whereas in his cross examination he stated that he is an ex-serviceman and at the time of accident he was working as security guard in the Bank of Maharashtra, Nizamabad. He denied the suggestion that as per Ex.A3, he received three simple injuries.

17. The learned Tribunal has taken into consideration Ex.A3 – wound certificate and found that there are three simple injuries and awarded an amount of Rs.2,000/- for each injury. As the appellant - petitioner did not file any record to show his income the learned Tribunal has treated him as a daily wage earner, fixed the

income at Rs.60/- per day, arrived that the appellant - petitioner could not work for a period of one week and awarded an amount of Rs.400/- under the head loss of income. The Tribunal also awarded Rs.300/- towards medicines and allowed the O.P. filed by the appellant - petitioner in part by awarding an amount of Rs.6,700/- as compensation.

18. Ex.A3 - wound certificate shows that there are three simple injuries and the learned Tribunal has awarded Rs.2,000/- for each injury and arrived at Rs.6,000/- which is proper. Insofar as the income of the appellant - petitioner is concerned, though the appellant stated that he is doing agriculture and milk business and earning Rs.12,000/- per month, but in his cross-examination he stated that he was working as a security guard by the date of accident in Bank of Maharashtra, Nizamabad. As the accident has occurred on 16.12.2002 this Court fixes the income of the appellant-petitioner as Rs.200/- per day. As he was unable to work for a week days, the loss of income arrived is Rs.1,400/-. The learned Tribunal has not awarded any amount towards pain and suffering, hence an amount of Rs.50,000/- is awarded to the appellant-petitioner towards pain and suffering. The learned Tribunal has also not awarded any amount towards transportation to hospital and extra nourishment. This Court feels that if an amount of Rs.5,000/- is fixed under the above said heads will meet

the ends of justice. The appellant - petitioner is entitled for total compensation of Rs.62,400/- and the calculation is as under:

Sl.No	Name of the Head	Compensation awarded by this Court
1.	Three simple injuries	Rs.6,000/- (Rs.2,000/- for each injury)
2.	Loss of income for a period of one week	Rs.1,400/- Rs.200/- per day
3.	Pain and suffering	Rs.50,000/-
4.	Transportation to hospital, medical expenses and extra nourishment	Rs.5,000/-
	Total	Rs.62,400/-

19. The learned Tribunal has awarded interest at the rate of 7.5% per annum, which has to be enhanced to 9% as per the decision in the case of Anjali and Others vs. Lokendra Rathod and others[1].

20. In the result, MACMA.No.3580 of 2008 is allowed in part and the compensation awarded by the Tribunal is enhanced as under:

a) The impugned award dated 28.01.2008 passed in O.P.No.1490 of 2004, stands modified.

b) The compensation awarded by the Tribunal i.e., Rs.6,700/- is enhanced to Rs.62,400/- together with

[1] 2022 SCC OnLine SC 1683

interest at the rate of 9% per annum from the date of filing the petition till payment.

c) The respondent Nos.1 and 2 are directed to deposit the awarded amount with interest and costs jointly and severally less the amount already paid if any within a period of 60 days from the date of receipt of a copy of this judgment.

d) Appellant – petitioner is permitted to withdraw his entire amount with costs and interest thereon without furnishing security.

As a sequel miscellaneous application/s pending if any shall stand closed. No costs.

SD/- A SREENIVASA REDDY
ASSISTANT REGISTRAR

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SECTION OFFICER

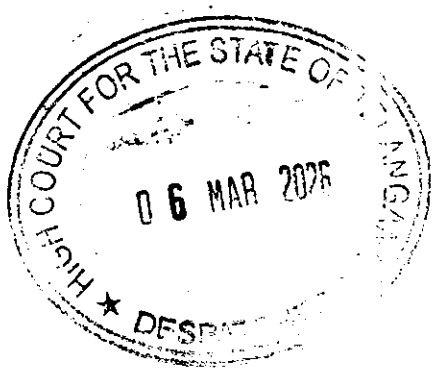
To,

1. The Chairman, Motor Accident Claims Tribunal cum III Additional District Judge, Fast Track Court, Nizamabad.(with records if any)
2. One CC to Mr Lakkadi Dayaker Reddy, Advocate [OPUC]
3. One CC to Mr V Durga, Advocate [OPUC]
4. Two CD Copies

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PMC.

HIGH COURT

DATED:02/12/2025



JUDGMENT
MACMA.No.3580 of 2008

PARTY ALLOWING MACMA WITHOUT COSTS

(6)PMG.
16/2/26

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TUESDAY, THE SECOND DAY OF DECEMBER
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THE HONOURABLE JUSTICE B.R.MADHUSUDHAN RAO

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...APPELLANT

AND

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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 Mr Lakkadi Dayaker Reddy, Advocate for the Appellant and Mr V Durga, Advocate for Respondent No.2

This Court doth Order and Decree as follows:

1. That the Motor Accident Civil Miscellaneous Appeal be and is hereby allowed in part;

2. That the impugned award dated 28.01.2008, passed in O.P. No.1490 of 2004, be and hereby is modified;
3. That the compensation awarded by the Tribunal i.e. Rs.6,700/- be and hereby is enhanced to Rs.62,400/- together with interest at the rate of 9% per annum from the date of filing the petition till payment;
4. That the respondent Nos.1 and 2 be and hereby are directed to deposit the awarded amount with interest and costs jointly and severally less the amount already paid if any within a period of 60 days from the date of receipt of a copy of this judgment;
5. That the Appellant – Petitioner be and hereby is permitted to withdraw his entire amount with costs and interest thereon without furnishing security; and

6. That there shall be no order as to costs in this appeal

SD/- A SREENIVASA REDDY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Chairman, Motor Accident Claims Tribunal cum I Additional District Judge, Fast Track Court, Nizamabad
2. Two CD Copies

Sa/PSL

pmc

HIGH COURT

DATED:02/12/2025

DECREE
MACMA.No.3580 of 2008

PARTY ALLOWING MACMA WITHOUT COSTS

(4) PMG
16/2/26