APHC010086462019

**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI**

**Bench
Sr.No:-14
[3505]**

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 179 of 2019

Nelapati Sadasiva Rao ...Appellant

Vs.

Muppasani Krishna and Others ...Respondent(s)

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CORAM : SRI JUSTICE T.C.D.SEKHAR

DATE : 6th November 2026

Present :

Advocate for Appellant: SIVA PRASAD KATAKAMSETTY

Advocate(s) for Respondent(s): D RAVI KIRAN, GUDI SRINIVASU,

HON'BLE SRI JUSTICE T.C.D. SEKHAR

MACMA No.179 OF 2019

JUDGMENT:-

1. Not satisfying with the quantum of compensation awarded in order dt.04.04.2017 in MVOP No.912 of 2012, on the file of Motor Vehicle Accidents Claims Tribunal-cum-III Additional District Court, Guntur, the present appeal is preferred by the claimant.

2. For the sake of convenience, the parties are referred to as they were referred before the Tribunal.

3. The petitioner filed claim petition under Section 166 of Motor Vehicles Act, seeking compensation of Rs.2,00,000/- lakhs on account of injuries sustained by him in the accident that occurred on 07.04.2011 at about 05:00 PM at Addanki-Narketpalli Highway Road, Piduguralla, Guntur District.

4. The case of the petitioner was that on 07.04.2011 at about 05:00 pm, while the petitioner was proceeding in the auto bearing Registration No.AP7TA 3613, when it reached Addanki-Nakirkallu Highway, the offending lorry bearing Registration

No.AP16TY 5378 came in opposite direction and dashed the auto. As a result of which, the petitioner and other passengers in the auto received injuries. It was further case of the petitioner that he sustained compound fracture of both bones of left hand below the elbow joint leading to damaging of nervous system of left hand and palm. The petitioner was shifted to GGH, Guntur, where he underwent treatment as inpatient from 08.04.2011 to 07.05.2011 and from 26.07.2011 to 14.09.2011.

5. It was further case of the petitioner that the accident occurred due to the rash and negligent driving of the drivers of both the vehicles, namely lorry and the auto. A case in Crime No.87 of 2011 was registered, on the file of Piduguralla Police Station. It was further case of the petitioner that he is agriculture coolie and used to earn Rs.200/- per day and in view of the injuries sustained by him, he is not able to attend the coolie work due to the disability sustained by him in the accident. In those circumstances, he filed the above claim petition seeking to pay compensation.

6. The respondent Nos.1, 3 and 6 remained ex-parte. The 5th respondent died pending the claim petition and the case

against him was abated. The 2nd respondent/insurer of the lorry filed counter affidavit stating that there was negligence on the part of the drivers of both the vehicles and the case registered against the drivers was investigated into and charge sheet was filed stating that the driver of the auto tried to overtake the vehicle in rash and negligent manner and thereby dashed the lorry that was coming in opposite direction. It was further stated that there was no negligence on the part of the driver of the lorry. Further it was stated that at the time of accident, there were more than ten (10) passengers in auto and the driver of the auto was not having valid driving license.

7. The 4th respondent/insurer of the auto filed counter affidavit stating that the 3rd respondent violated the terms and conditions of the policy, as such the 4th respondent is not liable to pay any compensation to the petitioner *inter alia* it was averred that the petitioner was required to prove the manner in which the accident had taken place.

8. In order to prove the case of the petitioner, he was examined as PW-1 and Dr.M.Prasanth, who treated the petitioner was examined as PW-2. He also filed documentary evidence in

Exs.A1 to A5. On the other hand, the respondents have examined RWs.1 to 5 and marked documents Exs.B1 to B9. Ex.X1 to X4 were marked through witnesses. After trial, the Tribunal, by the impugned order, partly allowed the claim petition awarding an amount of Rs.76,000/- as compensation together with interest @ 7.5% per annum from the date of filing of the petition till the date of deposit of the said amount by fastening the liability on respondent Nos.1 to 4 and 6 jointly and severally. Not satisfying with the quantum of compensation awarded by the Tribunal, the present appeal is filed.

9. Heard Sri Katakamsetty Siva Prasad, learned counsel appearing for the appellant/claimant, Sri Gudi Srinivasu, counsel appearing for respondent No.2 and Sri D.Ravi Kiran, learned Standing Counsel appearing for respondent No.4

10. Perused the material available on record.

11. The counsel for the appellant would submit that while awarding the compensation, the Tribunal did not appreciate the case of the claimant in its proper prospective and awarded a meagre amount of Rs.76,000/- towards compensation, which is not in accordance with law. It is the specific case of the counsel

for the appellant that he sustained compound fracture of both bones of left hand below the elbow joint leading to damaging of nervous system of left hand and palm. In order to substantiate the same, he has filed copy of Wound Certificate, which was marked as Ex.A3. Apart from the same, he also filed the discharge summaries issued by GGH, Guntur, which were marked in Ex.A4 and A5.

12. He would further submit that, in support of the petitioner's case, he examined Dr.M.Prasanth as PW-2, who categorically deposed that, the petitioner was admitted in Orthopaedic Ward with Type-3 compound fracture of both bones of left forearm and on 15.04.2011, the patient was treated with Wound Debridement and later discharged on 15.05.2011. PW-2, further deposed that, the petitioner again admitted in GGH, Guntur on 26.07.2011 and he underwent surgery for both bones of left forearm with plate fixation and he was discharged on 14.09.2011. Despite the said evidence, the Tribunal passed order under challenge by awarding the sum of Rs.36,000/- towards loss of income. He would further submit that the petitioner is entitled to receive the compensation as claimed by him.

13. On the other hand, the counsel for respondent No.2 would submit that, though PW-2 deposed that the petitioner underwent surgery, during the cross-examination he categorically admitted that he has not issued any disability certificate. He would also submit that PW-2 categorically stated in the cross-examination that the petitioner could attend to his normal activities despite though there is disability of 25% to his left upper limb. He would further submit that, on analyzing the evidence on record, the Tribunal rightly awarded compensation and the order of the Tribunal does not require interference. This Court has considered the respective submissions made by the counsel on both sides.

14. It is not in dispute that, the petitioner sustained injuries in the accident. Further, a perusal of evidence of PW-2, who categorically deposed that he conduced surgery to the petitioner and inserted implants to his left forearm. PW-2, further deposed that the petitioner was clinically found deformity of the left forearm with gross wasting of muscles of forearm and restriction of movement of fingers and the petitioner is having 20 to 25% of disability.

15. A perusal of the order under challenge, it is discernible that the Tribunal did not consider the evidence of PW-2 on the only ground that disability certificate was not issued to the petitioner. By taking into consideration of the fact that the petitioner was advised to take bed rest for a period of eight (8) months, the Tribunal while fixing the income of the petitioner as Rs.4,500/- per month, awarded an amount of Rs.36,000/- towards loss of income.

16. Further as rightly pointed out by the counsel for the appellant, despite the evidence of PW-2 is available on record, merely because no disability certificate was issued, compensation was not awarded to the petitioner for the disability suffered by him. In this regard, the counsel for the appellant places reliance on the judgment of this Court in the case of ***"A.Chalapati Vs. Sathyanarayana N.Nuwal and others"***[1]. In this Judgement, the Court held as follows.

> *"8. As regards the contention of the counsel for the appellant that the evidence of PW.2 regarding the permanent disability is rejected without any basis, I find force in the said contention as well. PW.2 is a qualified Orthopaedic surgeon. Undisputedly, he has treated the appellant. He has categorically deposed that the appellant has suffered permanent disability to the extent of 20% on account of shortening of leg. However, by a strange process*

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reasoning the Tribunal rejected this evidence by stating that the appellant has not obtained a certificate from the medical board. The Tribunal has not traced any statutory provision under which medical board is constituted and obtaining of the permanent disability certificate from the medical board is made obligatory for claimants under the Motor Vehicles Act, 1988.

9. In my considered opinion, nothing more is required than the testimony of the qualified Orthopaedic surgeon, who treated the appellant, to show that the appellant has suffered the permanent disability to the extent of 20%. Unless the Court finds the evidence of the doctor not worthy of acceptance by giving cogent reasons, the opinion of a qualified doctor, that too, of the doctor who conducted the surgery and treated the patient, cannot be discredited.

10. For the abovementioned reasons, the civil miscellaneous appeal is allowed to the following extent.

1. The appellant is entitled to the balance sum of Rs.11,032/- towards medical expenses under Ex.A7 bills.

2. The appellant is entitled to the sum of Rs.40,000/- towards the doctor's fees paid by him to PW.2

3. The appellant is also entitled to another sum of Rs.12,500/- in addition to Rs.12,500/- already granted for permanent disability.

4. Thus, in all the appellant is entitled to a sum of Rs.63,532/- in addition to the compensation awarded by the Tribunal. The appellant is also entitled to interest @ 7.5% per annum on the abovementioned sum from the date of the petition till the date of payment."

17. By placing reliance on the above judgment, the counsel for the appellant would submit that the petitioner is entitled to receive compensation for the disability as per the evidence of PW-2.

18. As observed supra, despite the evidence of PW-2 was available on record. For the reasons best known to the Tribunal, the same was not considered. The evidence of PW-2

cannot be brushed aside merely because no disability certificate was issued. Having considered the evidence of PW-2 and following the judgment rendered by this Court in the case of "***A.Chalapati vs. Sathyanarayana N. Nuwal and others",*** this Court is of the considered opinion that the petitioner is entitled to receive additional compensation of Rs.34,000/- for the disability suffered by him. Accordingly the present appeal is partly-allowed.

19. The 2nd respondent is directed to pay enhanced compensation of Rs.1,10,000/- together with interest @ 7.5% per annum from the date of filing of the petition till the date of realization. Needless to mention, the enhanced compensation amount shall be deposited within a period of two (02) months from the date of receipt of the copy of this order.

There shall be no order as to costs. As a sequel, all pending miscellaneous petitions, if any, shall stand closed.

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JUSTICE T.C.D.SEKHAR

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THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

MACMA No.179 of 2019
Date: 06.11.2026

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