APHC010152122008

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

Bench Sr.No:-33 [3396]

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 4019 of 2008

B.V.N. Subramanya Sharma ...Appellant

Vs.

M Veera Reddy Another and Others ...Respondent(s)

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CORAM : DR JUSTICE VENKATA JYOTHIRMAI PRATAPA

DATE : 25th November 2026

Present:

Advocate for Appellant: JAYANTI S C SEKHAR

Advocate(s) for Respondent(s): VEDULA SRINIVAS, R K SURI, MANOHAR REDDY MALLASANI

The Court made the following Judgment:

This appeal has been preferred by the claimant under Section 173 of the Motor Vehicles Act, 1988 (for short, "the M.V. Act"), seeking enhancement of the compensation awarded by the IX Additional District and Sessions Judge-cum-Chairman, Motor Accidents Claims Tribunal, Visakhapatnam (for short, "the Tribunal"), vide Award dated 16.01.2006 in M.O.P. No.1469 of 2003, whereby the Tribunal awarded a sum of Rs.69,500/- as against the claim of Rs.3,00,000/-.

2. The brief facts of the case, as pleaded by the claimant before the Tribunal, are that the claimant was aged about 50 years and was working as a Deputy Section Officer in APSRTC, drawing a monthly salary of Rs.15,000/-. On 22.08.2003, at about 8.45 p.m., after completion of his duties, while he was returning to his house and proceeding on foot near ECPC Company, a van bearing No.AP 31 W 936, driven by its driver in a rash and negligent manner at high speed, came from the opposite direction and dashed against him. As a result, he sustained grievous injuries, including fractures, and underwent treatment for a considerable period. It is further his case that, on account of the injuries sustained in the accident; he suffered permanent disability and loss of earning capacity. Hence, he filed the claim petition seeking compensation of Rs.3,00,000/- under various heads.

3. The 1st respondent, being the owner of the offending vehicle, filed a counter denying the material allegations made in the claim petition and

putting the claimant to strict proof thereof. It was specifically contended that there was no negligence on the part of the driver of the offending vehicle and that the accident occurred due to the negligence and carelessness of the claimant himself. Hence, the 1st respondent denied his liability to pay compensation.

4. The 2nd respondent, being the insurer of the offending vehicle, also filed a counter denying the material averments made in the claim petition and raising various defenses available to it under the provisions of the Motor Vehicles Act.

5. Basing on the pleadings, the Tribunal framed the following issues for consideration:

1. Whether the accident occurred due to rash and negligent driving of the vehicle bearing No.AP 31 W 936 (Lorry) by its driver?
2. Whether the petitioner is entitled to compensation, and if so, to what amount and from which of the respondents?
3. To what relief?

6. To substantiate his claim, the claimant examined himself as PW.1 and marked Exs.A1 to A10. He also examined PWs.2 and 3 and marked Ex.X1. On behalf of the respondents, no oral or documentary evidence was adduced.

7. Upon appreciation of the oral and documentary evidence, the Tribunal held that the accident occurred due to the rash and negligent driving of the driver of the offending vehicle. With regard to the quantum of

compensation, the Tribunal awarded a total sum of Rs.69,500/- under various heads, together with interest at the rate of 7.5% per annum from the date of presentation of the claim petition, i.e., 18.09.2003, till deposit. The Tribunal further held that both the respondents were jointly and severally liable to pay the compensation.

8. Aggrieved by the quantum of compensation awarded by the Tribunal, the claimant preferred the present appeal contending, inter alia, that the compensation awarded is meager and inadequate. It is contended that the Tribunal failed to properly appreciate the nature and gravity of the injuries sustained by the claimant, particularly the fracture of the calcaneum and fifth metatarsal of the left foot, the lacerated injury to the lower leg, swelling over the upper eyelid and other abrasions. It is further contended that the Tribunal failed to properly consider Ex.A5-disability certificate, which assessed the permanent disability at 25%, and the medical bills under Ex.A8. It is also contended that the Tribunal erred in not awarding compensation towards loss of earnings during the period of treatment. Hence, the claimant seeks enhancement of compensation as claimed in the appeal.

9. Heard Sri Jayanti S.C Sekhar, learned counsel appearing for the appellant; Sri V. Srinivas and Sri M. Manohar Reddy, learned counsel appearing for the respondents; and Sri N. Rama Krishna, learned counsel represented for National Insurance Company.

10. Having heard the submissions made on either side and upon perusal of the material available on record, it is evident that there is no dispute with regard to the factum of the accident, which occurred on 22.08.2003 due to the rash and negligent driving of the driver of the offending vehicle bearing No.AP 31 W 936. It is also not in dispute that the claimant sustained grievous injuries in the said accident. The only point that arises for consideration in this appeal is whether the compensation awarded by the learned Tribunal is just and reasonable or requires enhancement, having regard to the injuries sustained by the claimant.

11. Coming to the quantum of compensation, Ex.A3-wound certificate assumes significance. The injuries noted therein are as follows:

1. Fracture of the calcaneum and fifth metatarsal of the left foot.
2. Lacerated injury in the middle of the lower leg.
3. Swelling over the upper eyelid.
4. Abrasion on the medial side of the left finger.
5. Abrasion on the lateral side of the right thigh.

The wound certificate discloses that the claimant sustained a fracture to his left foot, along with other injuries. The medical record also establishes that there was loss of skin and muscle tissue. Ex.A5-disability certificate further supports the nature and extent of the injuries sustained by the claimant.

12. The claimant, while being examined as PW.1, deposed that the accident occurred on 22.08.2003. He was aged about 50 years at the time of

the accident and was working as a Deputy Section Officer in APSRTC, earning a monthly salary of Rs.15,000/-. The claimant reiterated the averments made in the claim petition in his chief-examination. Ex.A7 was placed on record to establish his salary particulars, while Ex.A8 relates to the period of leave availed by him on account of the injuries sustained in the accident. However, no person was examined to prove the said document.

13. The learned Tribunal, having considered the evidence of PWs.1 to 3, the gravity of the injuries sustained by the claimant and the treatment undergone by him, awarded a sum of Rs.1,000/- towards transportation charges. This Court is not inclined to interfere with the said finding.

14. An amount of Rs.25,000/- was awarded towards extra nourishment and medicines. Having regard to the nature of the injuries and the treatment undergone by the claimant, the said amount is considered reasonable and does not warrant interference.

15. However, no amount was awarded towards damages to clothing and articles. Though the claimant claimed a sum of Rs.4,000/- under the said head, having regard to the manner in which the accident occurred and the nature and gravity of the injuries sustained, this Court is inclined to award a sum of Rs.1,000/- towards damages to clothing and articles.

16. The learned Tribunal awarded a sum of Rs.8,000/- towards the fracture sustained by the claimant to his left foot. Having regard to the nature of the fracture, the loss of skin and muscle tissue and the treatment

undergone by him, the said amount is inadequate. Accordingly, the compensation under this head is enhanced from Rs.8,000/- to Rs.20,000/-.

17. An amount of Rs.2,000/- was awarded towards the lacerated injury, which is enhanced to Rs.5,000/-. Similarly, the amount of Rs.1,500/- awarded towards the injury to the eye is enhanced to Rs.5,000/-. In respect of the remaining simple injuries, the claimant is entitled to a sum of Rs.5,000/- for each injury. Accordingly, a sum of Rs.20,000/- (Rs.5,000/- x 4) is awarded towards the remaining simple injuries.

18. PW.4, the doctor who issued the disability certificate, deposed that he assessed the disability on account of the restricted movements of the left foot and painful deformity. Ex.A5-disability certificate establishes that the claimant suffered 25% permanent physical disability.

The learned Tribunal awarded a sum of Rs.30,000/- towards disability. However, as the disability has not been established to have resulted in functional disability or any actual reduction in the earning capacity of the claimant, this Court is not inclined to interfere with the amount awarded under the said head. It is well settled that the percentage of physical disability cannot automatically be treated as the percentage of loss of earning capacity. In the present case, the claimant continued in employment and no satisfactory evidence was placed on record to establish any functional disability affecting his earning capacity.

19. **Loss of earnings during the period of treatment:**

However, no amount was awarded by the learned Tribunal towards loss of earnings during the period of treatment.

The claimant placed on record the salary certificate, marked as Ex.A6, which discloses that his gross monthly salary was Rs.12,025/- and his net salary was Rs.6,017.85ps, after deductions towards PF, CCF, SPTT, SRBS, LIC, Income Tax, Professional Tax and furniture advance. However, all such deductions cannot be excluded while determining his actual salary, except the statutory deductions towards Income Tax and Professional Tax, which together amount to Rs.400/-. Accordingly, the monthly salary of the claimant, after excluding the said statutory deductions, would work out to Rs.11,625/- (Rs.12,025 - Rs.400).

Ex.A7 further discloses that the Regional Manager, APSRTC, issued a certificate stating that the claimant was on medical leave from 23.08.2003 to 31.12.2003.

The evidence of PWs.1 to 3, coupled with the medical record, particularly Ex.X1-case sheet, would establish that the claimant sustained a crush injury to his left leg and underwent surgery. He was also admitted as an inpatient for a considerable period.

Though the claimant did not examine the person who issued Ex.A7, the fact remains that he suffered loss on account of availing medical leave due to the injuries sustained in the accident. It may be that the medical leave was either on full pay or half pay. Nevertheless, but for the injuries sustained in the

accident, the claimant would not have been compelled to avail such medical leave. Consequently, he lost the benefit of three months' medical leave on account of the accident.

Taking into consideration the aforesaid circumstances, this Court is inclined to award a sum of Rs.25,000/- towards loss of earnings during the period of treatment.

20**.** Accordingly, the compensation payable to the claimant is reassessed as follows:

Sl. No.	**Head of compensation**	**Amount awarded by the Tribunal**	**Amount awarded by this Court**
1.	Transportation charges	Rs.1,000/-	Rs.1,000/-
2.	Extra nourishment and medicines	Rs.25,000/-	Rs.25,000/-
3.	Damages to clothing and articles	Nil	Rs.1,000/-
4.	Fracture of left foot	Rs.8,000/-	Rs.20,000/-
5.	Lacerated injury	Rs.2,000/-	Rs.5,000/-
6.	Injury to the eye	Rs.1,500/-	Rs.5,000/-
7.	Remaining simple injuries	Rs.2,000/-	Rs.20,000/-
8.	Permanent physical disability	Rs.30,000/-	Rs.30,000/-
9.	Loss of earnings during treatment	Nil	Rs.25,000/-
	TOTAL	**Rs.69,500/-**	**Rs.1,32,000/-**

21. Thus, the claimant is entitled to a total compensation of Rs.1,32,000/- as against Rs.69,500/- awarded by the learned Tribunal. Consequently, the enhanced compensation payable to the claimant would be Rs.62,500/-.

22. In view of the above discussion, the compensation awarded by the learned Tribunal warrants modification to the extent indicated above.

23. In the result, the appeal is partly allowed, enhancing the compensation from Rs.69,500/- to Rs.1,32,000/-, with interest at the rate of 7.5% per annum on the enhanced compensation of Rs.62,500/- from the date of filing of the claim petition till the date of deposit. The respondents are jointly and severally liable to pay the enhanced compensation. The 2nd respondent-Insurance Company is directed to deposit the enhanced compensation, together with interest thereon, within a period of eight (08) weeks from the date of receipt of a copy of this judgment, after giving credit to the amounts, if any, already deposited. The claimant is entitled to withdraw the enhanced compensation together with accrued interest, in accordance with law. There shall be no order as to costs.

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

DR. VENKATA JYOTHIRMAI PRATAPA,J

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THE HONOURABLE DR JUSTICE VENKATA JYOTHIRMAI PRATAPA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 4019/2008

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