APHC010263242011

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3396]
(Special Original Jurisdiction)

THURSDAY, THE 12th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE DR JUSTICE VENKATA JYOTHIRMAI PRATAPA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 2159/2011

Between:

1. PATAN ABDUL SAMAD @ PATAN SAMAD, S/O. PATAN ABDUL SALAM R/O. 6TH WARD, PARCHUR VILLAGE AND MANDAL PRAKASAM DISTRICT

...APPELLANT

AND

1. JYOTHI JAYARAJU JAYARAO AND 2 OTHERS, S/O. NAGABHUSHANAM DRIVER OF PVT. BUS.NO. AP27U 2025 R/O. DEVARAPALLI VILLAGE PARCHURU MANDAL PRAKASAM DISTRICT

2. GORANTLA VENKATANARAYANA, S/O. DEVAIAH OWNER OF PVT.BUS. NO. AP27U 2025 R/O. DEVARAPALLI VILLAGE PARCHURU MANDAL PRAKASAM DISTRICT

3. M/S UNITED INDIA INSURANCE COMPANY LTD, REP. BY ITS DIVISIONAL MANAGER DIVISIONAL OFFICE, DURGA COMPLEX, GNT ROAD, PANDARIPURAM CHILAKALURIPET, GUNTUR DISTRICT

...RESPONDENT(S):

Appeal filed under Section 173 of MV Act before the High Court aggrieved by the Judgment and Decree dt. 05-11-2009 on the file of the MACT cum-Principal District Judge, Ongole passed in M.V.O.P. No. 214 of 2008, the appellants beg to present this Memorandum of Civil Misc. Appeal before this Hon'ble Court.

IA NO: 1 OF 2010(MACMAMP 1738 OF 2010

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to condone the delay of 2 days in preferring the MACMA

Counsel for the Appellant:

1. B PARAMESEWARA RAO

Counsel for the Respondent(S):

1. SRINIVASA RAO VUTLA
2. MEDURI VARA PRASADA RAO

The Court made the following Judgment:

The instant appeal is preferred under Section 173 of the Motor Vehicles Act, 1988 (for short, “the M.V. Act”), by the appellant/claimant, aggrieved by the Order and Decree dated 05.11.2009 passed by the Principal District and Sessions Judge, Ongole, FAC: II Additional District Judge (FTC) (for short, “the Tribunal”), in M.O.P.No.214 of 2008, whereby the Tribunal awarded compensation of Rs.1,00,000/- with proportionate costs and interest at the rate of 9% per annum from the date of petition till the date of deposit, payable by respondent Nos.1 to 3.

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

3. The case of the petitioner/claimant, in brief, is as follows:

(a) On 21.01.2008, at about 9.15 p.m., the appellant, along with his friend, was proceeding on a motorcycle towards Chilakaluripet to attend a function. When they reached near the burial ground on the Chilakaluripet-Parchur Highway, a private bus bearing registration No.AP 27 U 2025, belonging to respondent No.2 and insured with respondent No.3, allegedly being driven by respondent No.1 in a rash and negligent manner, hit the motorcycle. As a result, the appellant fell down and sustained grievous injuries.

(b) Immediately after the accident, the appellant was shifted to the Government Hospital, Chilakaluripet, and thereafter to the Government General Hospital, Guntur. Subsequently, he was admitted to Dr. Aravindababu Orthopaedic Hospital, Narasaraopet, where he underwent treatment.

(c) The appellant, therefore, filed the claim petition seeking compensation of Rs.4,00,000/- for the injuries sustained by him in the said accident.

(d) Upon appreciation of the oral and documentary evidence on record, the Tribunal awarded total compensation of Rs.1,00,000/- to the claimant, payable by respondent Nos.1 to 3.

4**.** Heard Sri Parameswar Rao, learned counsel for the appellant/claimant, and Sri Srinivasa Rao Vutla, learned Standing Counsel for respondent No.3/Insurance Company. None appeared on behalf of respondent Nos.1 and 2, who are the driver and owner of the offending vehicle, respectively.

5. Learned counsel for the appellant/claimant would submit that the Tribunal failed to award adequate compensation having regard to the nature and gravity of the injuries sustained by the claimant in the road accident and the treatment undergone by him. Hence, he prayed for enhancement of the compensation awarded by the Tribunal.

6. Per contra, learned Standing Counsel for respondent No.3/Insurance Company would submit that the Tribunal, upon proper appreciation of the evidence available on record, awarded just and reasonable compensation and that the well-reasoned order passed by the Tribunal does not warrant any interference by this Court. Hence, he prayed for dismissal of the appeal.

7. Considered the submissions made by the learned counsel on either side and perused the pleadings, oral and documentary evidence, and the other material available on record.

8. In view of the above submissions, the following point arises for determination: Whether the appellant/claimant is entitled to enhancement of compensation, and if so, to what extent?

POINT:

9**.** There is no dispute with regard to the occurrence of the accident and the rash and negligent driving on the part of the driver of the offending vehicle. However, the Tribunal, upon appreciation of the evidence on record, found that the claimant had also contributed to the occurrence of the accident. Accordingly, the Tribunal attributed 25% contributory negligence to the claimant and 75% negligence to the driver of the offending vehicle and fixed the liability of the owner and insurer to the extent of 75%.

10. It is not in dispute that the claimant sustained grievous injuries in the accident that occurred on 21.01.2008. As per the claim petition, the claimant was aged 18 years as on the date of the accident, whereas his age was stated to be 20 years in the evidence. Whichever age is taken, the multiplier applicable under **Sarla Verma v. Delhi Transport Corporation,**[1] is 18 for the age group of 15 to 25 years, and hence the difference does not affect the computation.

11. At this juncture, it is appropriate to refer to the settled principles governing the assessment of compensation in cases involving personal injuries. The Hon'ble Supreme Court in ***Raj Kumar v.Ajay Kumar***[2] categorised the heads under which compensation is payable in personal injury cases into pecuniary and non-pecuniary damages. It was held that compensation may be awarded towards medical expenses, transportation, nourishing food, loss of earnings during the period of treatment, loss of future earning capacity on account of permanent disability, future medical expenses, pain and suffering, loss of amenities and loss of expectation of life, depending upon the facts and evidence available in each case. It was further held that the percentage of permanent disability cannot be mechanically treated as the percentage of loss of earning capacity, and the impact of the disability on the earning capacity of the injured has to be assessed with

[1] (2009) 6 SCC 121
[2] (2011) 1 SCC 343

reference to the nature of his occupation, age and other relevant circumstances.

12. Similarly, in ***R.D. Hattangadi v. Pest Control (India) (P) Ltd.***,[3] the Hon'ble Supreme Court explained that compensation in personal injury cases has to be assessed under two broad categories, namely, pecuniary damages and non-pecuniary damages. While pecuniary damages relate to actual expenses and losses capable of being calculated in monetary terms, non-pecuniary damages relate to losses that cannot be precisely quantified in monetary terms, such as pain and suffering, loss of amenities, loss of expectation of life and the inconvenience and hardship suffered by the injured claimant.

13. Further, in ***Karnataka State Road Transport Corporation v. Mahadeva Shetty***,[4] the Hon'ble Supreme Court observed that, though no mathematical formula can be applied for assessing the value of human suffering or disability, the compensation awarded must be just, fair and reasonable. The discretion vested in the Tribunal is required to be exercised on a rational and judicious basis and not on arbitrary considerations.

14. Keeping the aforesaid principles in view, this Court proceeds to examine whether the compensation awarded by the Tribunal under the various heads is just and reasonable.

15. As can be seen from the evidence on record, P.W.1, the claimant, deposed that, while he was attempting to overtake the bus at the time of the accident, the motorcycle lost control, thereby contributing to the occurrence of the accident. Therefore, the Tribunal rightly assessed the negligence at 75% on the part of the driver of the private bus and 25% on the part of the claimant. This Court finds no ground to interfere with the said finding.

16**.** Coming to the quantum of compensation, the claimant, examined as P.W.1, deposed that he sustained a crush injury to his right foot and a fracture to his right leg. In support of his case, he examined Dr. C.H. Aravind Babu as P.W.2.

17. P.W.2, the Doctor, testified that the injured was admitted to their hospital on 22.01.2008 with a compound comminuted fracture of the right femur and tibia, besides an injury to the right foot. He further deposed that the claimant underwent surgery involving plate and screw fixation and was discharged from the hospital on 24.03.2008.

18. P.W.2 further deposed that the claimant was advised to take bed rest for six months and undergo follow-up treatment once a month. He also stated that the claimant suffered stiffness of the right knee joint, deformity of the right foot and non-healing of the injury. The

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[3] (1995) 1 SCC 551
[4] (2003) 7 SCC 197

Doctor assessed the disability of the right lower limb at approximately 50%.

19. The Doctor further deposed that the claimant requires plastic surgery, which would cost approximately Rs.1,00,000/-. He also identified the medical bills marked as Exs.A.4 to A.14.

20. It is the specific case of the claimant that, after completing his Polytechnic course, he was pursuing a Hardware course at Vijayawada. Taking into consideration the age of the claimant as 18 years and the disability assessed for the purpose of computation at 20%, the Tribunal considered his notional income at Rs.3,000/- per month and assessed the compensation towards permanent disability at Rs.1,33,200/-. However, the Tribunal considered 75% of the said amount, namely, Rs.99,000/-, as payable after deducting 25% towards contributory negligence and rounded off the compensation to Rs.1,00,000/-.

21. Though P.W.2 assessed the disability of the right lower limb at about 50%, a disability certified with reference to a particular limb cannot be equated with the disability of the whole body, and its effect on the earning capacity has to be assessed with reference to the avocation of the injured, as held in ***Raj Kumar*** (supra). The claimant was a student pursuing a technical course and the stiffness of the right knee joint and the deformity of the right foot would restrict though not wholly

deny his capacity to earn in that field. Hence, the functional disability of 20% taken by the Tribunal is reasonable. However, the Tribunal did not add any amount towards future prospects. In terms of **National Insurance Company Limited v. Pranay Sethi,**[5] an addition of 40% is warranted for a person aged below 40 years who is not in permanent employment and the Hon'ble Supreme Court in **Sidram v. Divisional Manager, United India Insurance Co. Ltd.**[6] held that such addition applies equally to the assessment of loss of future earnings in cases of permanent disability. The multiplier applicable to the age group of 15 to 25 years is 18 in terms of ***Sarla Verma*** (referred supra). Accordingly, the loss of future earnings on account of permanent disability is computed at Rs.1,81,440/- (Rs.3,000/- x 12 = Rs.36,000/- + 40% = Rs.50,400/- x 20% = Rs.10,080/- x 18).

21. A perusal of the award passed by the Tribunal would disclose that no separate compensation was awarded towards medical expenses, future medical expenses and other pecuniary and non-pecuniary damages, notwithstanding the evidence placed on record regarding the nature of the injuries, prolonged treatment and requirement of further surgery.

22. The evidence of P.Ws.1 and 2 clearly establishes that the claimant underwent surgery and is required to undergo further surgery.

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[5] (2017) 16 SCC 680
[6] (2023) 3 SCC 439

The medical bills placed on record, particularly Ex.A.13, disclose that the total hospital expenses amounted to Rs.1,03,674/-. Having regard to the fact that the treatment was taken in a private hospital and after making a reasonable deduction, this Court considers it appropriate to award Rs.90,000/- towards medical expenses.

23. With regard to future medical expenses, P.W.2 specifically deposed that the claimant requires further plastic surgery, which may cost approximately Rs.1,00,000/-. In view of the specific evidence of the Doctor regarding the necessity of future surgery and the estimated expenditure involved, this Court considers it appropriate to award Rs.1,00,000/- towards future medical expenses.

24. It is further evident from the record that the claimant sustained a compound comminuted fracture of the right femur and tibia and a crush injury to the right foot, for which he underwent prolonged treatment and surgery. Having regard to the nature and gravity of the injuries and the period of treatment, this Court considers it appropriate to award Rs.18,000/- towards loss of income during the period of treatment, taking the notional monthly income of the claimant at Rs.3,000/-.

25**.** Further, no amount was awarded by the Tribunal towards special diet, transportation, damage to clothing, other incidental expenses and attendant charges. Having regard to the nature of the

injuries and the prolonged treatment undergone by the claimant, this Court has also considered the overall impact of the injuries while determining compensation under the relevant heads.

26. The claimant was aged about 18 years at the time of the accident. The evidence of P.W.2 establishes that he suffered stiffness of the right knee joint and deformity of the right foot, which has not healed completely. Such injuries, particularly at a young age, would undoubtedly have an adverse impact on his future life and prospects. Therefore, this Court considers it appropriate to award Rs.25,000/- towards disfigurement, Rs.59,000/- towards loss of prospects of marriage, Rs.25,000/- towards pain and suffering and Rs.25,000/- towards loss of amenities of life.

27. Having regard to the nature and gravity of the injuries, the prolonged treatment undergone by the claimant, the requirement of future surgery and the physical pain and suffering endured by him, this Court is of the considered opinion that the compensation awarded by the Tribunal is inadequate and requires enhancement. Accordingly, applying the principles laid down by the Hon'ble Supreme Court in ***R.D. Hattangadi*** and ***Raj Kumar,*** the compensation is reassessed under the following heads:

Sl.No.	Head of compensation	Awarded by the Tribunal (Rs.)	Awarded by this Court (Rs.)
1.	Permanent disability	1,00,000	1,81,4400
2.	Medical expenses	—	90,000
3.	Future medical expenses	—	1,00,000
4.	Loss of income during treatment	—	18,000
5.	Disfigurement	—	25,000
6.	Loss of prospects of marriage	—	59,000
7.	Pain and Suffering	—	25,000
8.	Loss of amenities of life	—	25,000
	Gross Total	**1,00,000**	**5,23,400**

29. Thus, the total compensation payable to the claimant is re-determined at Rs.5,23,400/-. However, having regard to the contributory negligence of the claimant to the extent of 25%, he is entitled to 75% of the said amount, which comes to Rs.3,92,580/-.

30. Therefore, in view of the foregoing discussion, this Court is of the considered opinion that the award passed by the Tribunal warrants interference by enhancing the compensation from Rs.1,00,000/- to Rs.3,92,580/-.

31. Accordingly, the MACMA is partly allowed, enhancing the compensation from Rs.1,00,000/- to Rs.3,92,580/-, with proportionate costs and interest at the rate of 7.5% per annum from the date of

petition till the date of deposit, payable by respondent Nos.1 to 3 jointly and severally.

(i) Respondent No.3/Insurance Company is directed to deposit the enhanced compensation of Rs.2,92,580/-, together with accrued interest and proportionate costs, after deducting the amount, if any, already deposited, within a period of two (02) months from the date of receipt of a copy of this judgment.

(ii) On such deposit, the claimant shall be entitled to withdraw the entire compensation amount, along with accrued interest and costs.

(iii) The Tribunal shall take necessary steps for disbursement of the amount in accordance with law, after giving credit to the amount, if any, already paid.

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

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DR. VENKATA JYOTHIRMAI PRATAPA,J

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RJS/SZT

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THE HON'BLE DR JUSTICE VENKATA JYOTHIRMAI PRATAPA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 2159/2011

Dt: 12.11.2026

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