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APHC010517762018

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3604]
(Special Original Jurisdiction)

MONDAY, THE 5th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 1938/2018

Between:

1. RAVURI PRASHANTH, S/O. DEVAIAH, AGE 27 YEARS, EXECUTIVE DIRECTOR, KISAN TECHNOLOGIES, D.NO.5-434, BAPTIST PET, MANGALAGIRI, GUNTUR DISTRICT.

...APPELLANT

AND

1. K RAMU, S/O NARAYANA RAO (POLICY HOLDER), REGN.NO.AP 16 TT 1846, MANTADA, PAMIDIMUKKALA J.C.J.C., GUDIVADA, KRISHNA DISTRICT.
2. THE NEW INDIA ASSURANCE CO LTD, REPRESENTED BY ITS DIVISIONAL MANAGER, VIJAYAWADA, C/O.4/1 BRODIPET, GUNTUR. POLICY NO 620700/31/04/02359 VALID FROM 14.08.2004 TO 13.08.2005.
3. GONTIMUKKALA BALA CHANDRUDU, S/O.GURAVAIAH, DRIVER OF AUTO RICKSHAW BEARING REGN.NO.AP 16 TT 1846 R/O. S.C.COLONY, CHILUVURU VILLAGE, DUGGIRALA MANDAL,

GUNTUR DISTRICT. (R-3 IS ADDED AS PER ORDERS IN LA. 1220/2015, DT.28.12.2015.)

4. R JHANSI RANI, W/O ANANDA RAO, (OWNER OF AUTO RICKSHAW BEARING REGN. NO.AP 16 TT 1846 DOOR.NO.4-36, CHILUVURU VILLAGE, DUGGIRALA MANDAL, GUNTUR DISTRICT. (R-4 IS ADDED AS PER ORDERS IN I.A.789/2016, DT. 18.07.2016)

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Court aggrieved by the order and decree dated 19.2.2018 passed in M.V.O.P.No. 593 of 2012 by the Chairman, Motor Vehicles Accidents Claims Tribunal-cum-III Addl. District Judge(FTC), Guntur, for enhancement of compensation, on the following

IA NO: 1 OF 2018

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 6 days in preferring the present MACMA against the order and decree dated 19.2.2018 passed in M.V.O.P.No.593 of 2012 by the Motor Vehicles Accidents Claims Tribunal-cum-III Addl. District Judge, Guntur, and pass

Counsel for the Appellant:

1. V SAI KUMAR

Counsel for the Respondent(S):

1. P SATYA MANJULA
2.

The Court made the following:

THE HON'BLE SMT. JUSTICE SUNITHA GANDHAM

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO:1938 OF 2018

J U D G M E N T:

Assailing the judgment and decree dated 19.02.2018 in M.V.O.P.No.593 of 2012 passed by the Motor Accidents Claims Tribunal-cum-III Additional District Judge, Guntur, the petitioner filed the instant appeal seeking enhancement of compensation.

2. Parties are being referred to as per their positions before the Tribunal, for the sake of convenience and clarity.

3. **Case of the petitioner in brief is that:**

On 20.05.2005 at about 10:30 A.M., while the petitioner was returning from his office, on his motorcycle bearing No.AP 7 S 4416 along with his friend and when they reached Prakasam Barrage, driver of the Auto bearing No.AP 16 TT 1846 drove the same in a rash and negligent manner and dashed against the motorcycle of the petitioner and as a result of which, the petitioner fell down and sustained multiple injuries to his right leg and all over his body. Immediately after the accident, he was admitted in Global Medical Centre, Vijayawada. The accident occurred due to the rash and negligent driving of respondent No.3 and as such, a case in Crime No.100 of 2015 was registered. As on the date of accident, the petitioner was hale and healthy. Due to the accident, he took treatment at Global Medical Centre, underwent surgeries and incurred an amount of Rs.30,000/- towards treatment. Respondent No.1 is the policy holder, respondent No.2 is insurer, respondent No.3 is the driver of the auto bearing No.AP 16 TT 1846 and

respondent No.4 is the registered owner of the said auto and as such, respondent Nos.1 to 4 are jointly and severally liable to pay compensation.

4. Having received notices, respondent Nos.1, 3 and 4 remained ex parte.

5. Respondent No.2 filed written statement, refuting the averments made in the petition and by contending that the accident not occurred due to the rash and negligent driving of respondent No.3, the petitioner claimed excessive compensation and that the Insurance Company is not liable to pay any compensation.

6. Taking into consideration of the aforementioned pleadings, the learned Tribunal settled the following issues:

1. Whether the accident occurred due to rash and negligent driving of the vehicle i.e Auto bearing No.AP 16 TT 1846?

2. Whether the petitioner is entitled to compensation, if so, to what amount, and against whom?

3. To what relief?

7. During trial, the petitioner himself examined as PW1 and he has got examined the doctor as PW2, and filed Exs.A1 to A6 and X1 to X3 documents. As against the said evidence, respondent No.2 did not adduce either oral as well as documentary evidence. At the culmination of trial, the learned Tribunal allowed the petition, granting compensation of Rs.1,56,600/-.

8. Feeling aggrieved by the said decree and judgment, the petitioner preferred the instant appeal, urging the following grounds of appeal:

> i) The decree and judgment is contrary to law, weight of evidence and probabilities of the case.
>
> ii) The claims Tribunal ought to have observed that the accident occurred due to the rash and negligent driving of the driver of auto and that the petitioner sustained grievous injuries.
>
> iii) The claims Tribunal ought to have granted adequate compensation under all heads.
>
> iv) The claims Tribunal ought to have considered the loss of income and permanent disability sustained by the petitioner.
>
> v) The claims Tribunal failed to consider the oral as well as documentary evidence adduced by the petitioner.
>
> vi) The claims Tribunal failed to consider the avocation and earnings of the petitioner, and with other formal grounds, prayed to allow the appeal.

9. Heard the learned counsel for the petitioner and respondents.

10. On hearing both sides and upon perusing the material available on record, the points that would arise for consideration are as follows:

> 1) Whether the accident dated 20.05.2015 occurred due to the rash and negligent driving of respondent No.3/driver of Auto bearing No.AP 16 TT 1846?
>
> 2) Whether the petitioner is entitled for compensation? If so, to what amount?

3) Whether the decree and judgment dated 19.02.2018 passed by the learned III Additional District Judge, Guntur**,** are sustainable in law and on facts?

4) To what relief?

11. Admittedly, respondents have not preferred appeal against the finding of the learned tribunal, however, being the first appellate Court and the final fact-finding Court, this Court has to re-examine and re-appreciate the entire oral and documentary evidence on record.

12. <u>Point No.1</u>:

a) During trial, the petitioner filed examination-in-chief affidavit in lieu of his chief examination, by reiterating the averments mentioned in the petition, and filed Exs.A1 to A6 documents. It came in the evidence of PW1 that on 20.05.2005 at 10.30 A.M., while he was returning from his office on his motorcycle bearing No.AP 7 S 4416 along with his friend and when they reached near Prakasam Barrage, respondent No.3, who is driver of auto bearing No. AP16 TT 1846, drove the same in a rash and negligent manner and dashed against his motorcycle and as a result of which, he sustained multiple grievous injuries and immediately after the accident, he was shifted to Global Medical Center, Vijayawada and since the accident occurred due to the rash and negligent driving of respondent No.3, a case in Crime No.100 of 2015 was registered for the offence under Section 338 of IPC against respondent No.3. Nothing useful material is elicited in the cross-examination of PW.1. Further, having received summons, respondent Nos.1, 3 and 4 remained ex parte. Respondent No.3/ driver who is best person to speak about the accident is not examined and his non-examination is fatal to the case of the respondents.

b) Further, based on the report of the petitioner, a case in Crime No.100 of 2015 was registered vide Ex.A1, after completion of investigation, police laid charge sheet vide Ex.A3, the same is registered as C.C.No.331 of 2005 and ended in conviction *vide* Ex.A2/Calendar of judgment. So, it clearly shows that the accident occurred only due to the rash and negligent driving of respondent No.3 and mere denial of commission of accident is not suffice to consider the contentions of the learned counsel for respondent No.2. The material produced by the petitioner, particularly, the evidence of PW.1 coupled with Exs.A1 to A3, supports the case of the petitioner. Hence, this point is answered holding that the accident occurred due to the rash and negligent driving of respondent No.3 and the petitioner sustained injuries in the said accident.

13. <u>Point No.2</u>:

(a) So far as the age and income of the petitioner are concerned, it came in his evidence that he was aged about 27 years, was working as Marketing Manager in Krisan Technologies, Vijayawada and was drawing salary of Rs.12,000/- per month. To substantiate his version, he filed Ex.A6. As per all the crime records including Ex.A4/wound certificate, the petitioner was aged about 27 years as on the date of accident. There is no contra evidence to that effect. To substantiate his earnings, petitioner filed Ex.A6/salary certificate said to have been issued by Krisan Technologies, Vijayawada. But, to prove the same, he has not examined his employer/any authorized person. Mere filing of a document is not suffice, especially, when the respondents disputed the said document. So, Ex.A6 cannot be taken into consideration. Having rejected Ex.A6, learned Tribunal fixed notional income of the petitioner

at Rs.4,000/-. But, in the given facts and circumstances coupled with the fact that the accident occurred in the year 2005 and on a reasonable hypothesis, notional income of the petitioner has to be fixed at Rs.6,500/- per month.

(b) So far as the injuries and treatment of the petitioner are concerned, as per the version of the petitioner, he sustained a comminuted Type III open supracondylar fracture vide Ex.A5, underwent surgeries, took bed rest, sustained disability and suffered loss of income. To substantiate his version, he has got examined Orthopedic Consultant of Global Medical Centre, Vijayawada as PW.2 and he testified that on 20.05.2005, he examined PW.1 and on his examination, he found that the petitioner sustained a comminuted-Cum-united compound fracture on the right femur, a lacerated wound over the right side and an abrasion over right toe. Further, he conducted supracandylor nailing of the right femur and wound debridement and the petitioner was discharged on 26.05.2005. PW.2 further testified that the petitioner is suffering from restricted range of movements of right knee joint, he cannot walk properly due to stiffness of right knee joint and he sustained permanent partial disability at 35%. Further, the petitioner has to undergo another surgery to his right femur, for which he has to incur Rs.40,000/-. PW.2 admitted Ex.A4/wound certificate, Ex.X1/Case sheet and Exs.X2 and X3/Chest X-ray films, and in the cross-examination, nothing useful material is elicited and all the suggestions put to PW.2 are categorically denied.

(c) Admittedly, the petitioner has not examined any doctor to prove disability. However, the learned Tribunal, having relied upon the judgment of the Hon'ble High Court in ***A.Chalapathi Vs. Satyanarayana***

N.Nuwal[1], considered the functional disability at 10%. In view of the evidence of PW.2, who had given treatment to the petitioner and the evidence of PWs.1 and 2 coupled with Exs.A4 and A5 and Exs.X1 to X3, it is evident that the petitioner sustained grievous injuries, underwent surgery, has to undergo another surgery, took treatment for six days, was advised to take bed rest, suffered functional disability at 10% and has to incur an amount of Rs.40,000/- towards surgery for removal of implants. There is no reason to disbelieve the version of PWs 1 and 2 with regard to the injuries sustained by the petitioner, the income of the petitioner, loss of income and the disability sustained by the petitioner and the details of compensation under each head are as follows:

I. Pecuniary Damages:

1. Loss of Amenities: Due to the disability and future prospects, having considered the nature of work, age, education and other allied aspects, the Tribunal assessed the functional disability of the petitioner at 10%.

In ***Sarla Verma & Ors vs Delhi Transport Corporation & Anr[2],***

Hon'ble Apex Court held thus:

> "It is necessary to reiterate that the multiplier method is logically sound and legally well established. There are some cases which have proceeded to determine the compensation on the basis of aggregating the entire future earnings for over the period the life expectancy was lost, deducted a percentage therefrom towards uncertainties of future life and award the resulting sum as compensation. This is clearly unscientific. For instance, if the deceased was, say 25 years of age at the time of death and the life expectancy is 70 years, this method would multiply the loss of dependency for 45 years virtually adopting a multiplier of 45 and even if — — one-third or one-fourth is deducted therefrom towards the uncertainties of future life and for

[1] 2010 (5) ALT 543

[2] (2009) 6 SCC 121

> immediate lump sum payment, the effective multiplier would be between 30 and 34. This is wholly impermissible."

This principle applies to the permanent disability cases also. So, loss of future earnings have to be calculated by applying the multiplier method. It is evident from the record that the petitioner was aged about 27 years as on the date of accident and the relevant multiplier is '17'.

Further, in ***National Insurance Company Limited Vs. Pranay Sethi*** [3], Hon'ble Apex Court considered the claim for future prospects of a victim, a carpenter, who had suffered permanent disability. Since, the petitioner was aged about 27 years, 40% of the total loss of income has to be taken into consideration towards future prospects.

2.**Loss of Earnings (past):** Having considered the nature of the injuries, treatment taken by the petitioner, he is entitled to an amount of Rs.39,000/- (Rs.6,500X6).

3.**Medical Expenses:** As per the evidence of the petitioner, he incurred an amount of Rs.2,50,000/-. But, he has not filed any document showing the said expenditure. Admittedly, he had taken treatment at Global Medical Centre, Vijayawada and underwent surgery. So, the actual expenditure incurred by the petitioner shall not be denied and on a reasonable hypothesis, the expenditure is assessed at Rs.50,000/-.

4.**Future Medical Expenses:** As per the version of PW.2, the petitioner has to undergo another surgery and has to incur an amount of Rs.40,000/- and the said amount is to be considered.

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[3] 2017 (16) SCC 680

5. **Attendant Charges:** In view of the judgment of Hon'ble Apex Court in ***R.D.Hattangadi Vs M/s. Pest Control (India) Private Limited and Others***[4], the Court need not be mathematical in calculating expenses towards an attendant and in the present case at hand, the petitioner is entitled for (2,000*6) Rs.12,000/- towards attendant charges for six months.

II. Non-Pecuniary Damages:

1.Pain and Suffering: ***The Divisional Controller, KSRTC v. Mahadeva Shetty and Another***[5]**,** the Hon'ble Apex Court held thus:

> *"A person not only suffers injuries on account of accident but also suffers in mind and body on account of the accident throughout his life and a feeling is developed that he is no more a normal man and cannot enjoy the amenities of life as another normal person can. While fixing compensation for pain and suffering as also for loss of amenities of life the features like his age, marital status and unusual deprivation he has undertaken in his life has to be reckoned".*

In view of the injuries and permanent disability sustained by the petitioner, the nature of treatment taken by him and the future surgery, an amount of Rs.1,50,000/- is awarded towards pain and suffering. In addition to that, an amount of Rs.20,000/- is awarded towards loss of amenities.

(d) In all, the petitioner is entitled to compensation as follows:

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[4] 1995 1 SCC 551

[5] 2003 (7) SCC 197

S.No.	HEADS		CALCULATION
I	**Pecuniary damages:**		
i)	Loss of earnings due to disability (6,500 X 12 X 17 X 10/100)	Rs.	1,32,600/-
ii)	Future Prospects (1,32,600x 40/100)	Rs.	53,040/-
	Loss of earnings(past) for 6 months (6,500x6)		39,000/-
iii)	Medical expenses	Rs.	50,000/-
iv)	Attendant charges	Rs.	12,000/-
	Total	Rs.	2,86,640/-
II	**Non Pecuniary expenses:**		
vi)	Pain and suffering	Rs.	1,50,000/-
vii)	Loss of amenities	Rs.	20,000/-
	Total		1,70,000/-
	TOTAL (pecuniary+non-pecuniary damages) (2,86,640+1,70,000)	Rs.	4,56,640/- (rounded to 4,56,700/-)

(e) In this court's well considered view and in accordance with the propositions of law laid down by the Hon'ble Apex Court, the compensation of **Rs.4,56,700/- (Four lakhs fifty six thousand seven hundred rupees only)** is just and reasonable. It is needless to say that though the petitioner claimed compensation of Rs.4,60,000/-, in view of the settled principles of law, just and fair compensation is to be awarded to the petitioner.

(f) So far as the liability of the respondents is concerned, it is to be noted that a finding is already recorded in issue No.1, holding that respondent No.3/driver of auto bearing No.AP 16 TT 1846 was solely

responsible for the accident, and respondent No.1/policy holder and respondent No.4/registered owner of the auto are vicariously liable to indemnify the liability of respondent No.3. It is not in dispute that the policy of the offending vehicle was in force as on the date of accident. Hence, this issue is answered, holding that the respondent Nos.1 to 4 are jointly and severally liable to pay compensation.

14. Point No.3:

Upon reappraisal of the evidence on record, and for the foregoing reasons, this court came to the conclusion that the learned tribunal erred in assessing the quantum of compensation and as such, the same is liable to be modified. Hence, this point is answered accordingly.

15. Point No.4:

(i) **In the result**, this Motor Accident Civil Miscellaneous Appeal is allowed, and the compensation awarded by the tribunal is enhanced from **Rs.1,56,600/- (Rupees one lakh fifty-six thousand six hundred only to Rs.4,56,700/- (Rupees four lakhs fifty-six thousand seven hundred only)** together with interest at the same rate as awarded by the tribunal, from the date of the claim petition till the date of realization.

(ii) Time for deposit, as aforesaid, with interest, excluding the amount, if any, already deposited, is one (1) month from the date of receipt of a copy of this judgment.

(iii) On such deposit, the petitioner is permitted to withdraw the compensation as awarded supra along with accrued interest thereon, excluding the amount, already paid.

(iv) There shall be no order as to costs.

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

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SUNITHA GANDHAM, J

Date:05.10.2026.
Pmk/vns

Whether the order is :

✓
Speaking Yes/No / Reasoned Yes/No

✓
Reportable Yes/No / Non-Reportable Yes/No