

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**FRIDAY, THE THIRTIETH DAY OF JUNE
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SMT JUSTICE P.SREE SUDHA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 2028 OF 2008

Appeal Under Section 173 of Motor Vehicles Act against the order and decree in M.V.O.P. No. 902 of 2004 dated 1/4/2008 on the file of the Court of the Chairman Motor Accident Claims Tribunal-Cum -II Additional District Judge, FAC IV Additional District & Sessions Judge, (FTC), Nizamabad.

Between:

SMT. K. Posani, W/o: Pedda Poshetty, aged 31 years, Occ: Vegetable and Milk Vendor, R/o Kumargalli, Nizamabad.

...APPELLANT

AND

1. Shaik Ahmed, S/o: Abdul Qayyum, age major, Occ: Owner of Tata Sumo No. AP 25 U 1276 R/o H.No.9-20-29, Valmikinagar, Nizamabad.
2. New India Assurance Company Limited, Rep.by its Divisional Manager, Divisional Office, Opp Zilla Parishad, Subashnagar,

...RESPONDENTS

Counsel for the Appellant: SRI. Y S YELLA NAND GUPTA

Counsel for the Respondents: SRI. KOTA SUBBA RAO

The Court Delivered the following: JUDGMENT

THE HON'BLE SMT. JUSTICE P. SREE SUDHA

M.A.C.M.A. No.2028 OF 2008

JUDGMENT

This appeal is preferred questioning the award and decree dated 01.07.2008 passed by the Motor Accident Claims Tribunal (IV Additional District Judge) (FTC), Nizamabad (in short 'Tribunal'), in O.P. No.902 of 2004 whereby the Tribunal has granted compensation of Rs.50,000/- with interest @ 7.5% per annum and proportionate costs payable by respondents 1 and 2 jointly and severally, as against the claim of the appellant for a sum of Rs.3,00,000/-.

2) Heard arguments of both the counsel.

3) This appeal is filed by the appellant-claimant-injured seeking enhancement of the compensation awarded by the Tribunal. Therefore, this Court is not going into the other aspects of the impugned award except the quantum of compensation.

4) As seen from the material on record, the claimant got examined P.W.2-Assistant Civil Surgeon in Government Hospital, Bharadwada. P.W.2 deposed that on 17.04.2004 she examined the injured and found 1) Dislocation of right

shoulder, 2) Fracture of right clavicle, 3) Fracture of right humerus, 4) Fracture of right ankle joint, 5) Abrasion on right side of face measuring $\frac{1}{2} \times \frac{1}{2} \times \frac{1}{2}$ cms and 6) Abrasion on right side of eye measuring $\frac{1}{4} \times \frac{1}{4} \times \frac{1}{4}$ cms. According to P.W.2, injuries 1 to 4 are grievous nature and injuries 5 and 6 are simple in nature. After giving first-aid, she referred the injured to District Headquarters Hospital, Nizamabad. Ex.A.3 is the wound certificate issued by her. Ex.A.4 is the X-ray of the injured. Though the appellant has stated that subsequently she was admitted in a private Nursing Home, underwent operation and rod was inserted in her right leg and incurred an expenditure of Rs.1 lakh towards treatment, no documents were filed. However, considering the nature of injuries sustained by the injured as evidenced from Ex.A.3-Wound Certificate, this Court finds it just and reasonable to grant Rs.62,000/- for the injuries, Rs.15,000/- towards pain & suffering, Rs.15,000/- towards loss of amenities, Rs.10,000/- towards medical expenses, Rs.10,000/- for transportation and Rs.5,000/- towards extra nourishment. At the time of the accident, the appellant was aged 31 years and working as vegetable and milk vendor. Therefore, this Court finds it reasonable to consider the income of the appellant as

Rs.5,000/- per month. As the injured sustained fracture injuries, she might not have attended to work atleast for a period of six months. Hence, towards loss of earnings, an amount of Rs.30,000/- can be awarded. Thus, in all, the claimant is entitled to the total compensation of Rs.1,47,000/-.

5) Accordingly, the appeal is allowed in part and the compensation amount of Rs.50,000/- granted by the Tribunal is enhanced to Rs.1,47,000/- payable by both the respondents jointly and severally along with interest @ 7.5% per annum from the date of the petition till realization. Respondent No.2 shall deposit the entire compensation amount along with interest and costs within a period of one month from the date of receipt of a copy of this order. On such deposit, the appellant is entitled to withdraw the entire amount, without furnishing any security.

Miscellaneous applications pending, if any, shall stand closed. No order as to costs.

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SD/- N. SRIHARI
ASSISTANT REGISTRAR
(30)
SECTION OFFICER

To,

1. The Chairman, MACT- Cum -II Additional District Judge F&C IV Additional District & Sessions Judge(FTC), Nizamabad (With Records)
2. One CC to Sri. Y. S. Yella Nand Gupta, Advocate [OPUC]
3. One CC to Sri. Kota Subba Rao, Advocate [OPUC]
4. Two CD Copies

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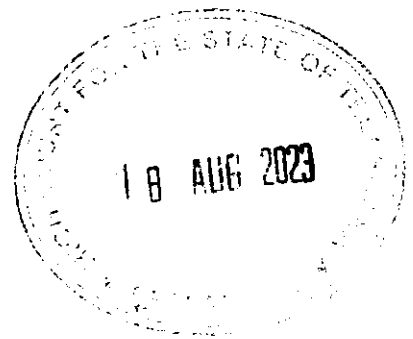
pmr.

HIGH COURT

DATED:30/06/2023

JUDGMENT

MACMA.No.2028 of 2008



PARTLY ALLOWING THE MACMA

⑥ pmh.
26/7/23.

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PRESENT

THE HONOURABLE SMT JUSTICE P.SREE SUDHA

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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 arguments of Sri. Y.S. YELLANAND GUPTA, Advocate for the Appellant and of Sri. Y.S. YELLANAND GUPTA, Advocate for the Respondent No. 2 and None Appeared for the Respondent No. 1 not appeared either in person or by Advocate

This Court doth Order and Decree as follows:

1. That the Motor Accident Civil Miscellaneous Appeal be and hereby is Allowed in Part.
2. That the Compensation Amount of Rs. 50,000/- granted by the Tribunal is enhanced to Rs. 1,47,000/- (Rupees one lakh Forty Seven Thousand Only) payable by both the respondents jointly and severally along with interest @ 7.5% p.a annum from the date of the petition till realization
3. That the Respondent No.2 shall deposit the entire compensation amount along with interest and costs within a period of one month from the date of receipt of a copy of this order. On such deposit, the appellant is entitled to withdraw the entire amount, without furnishing any Security.
4. That save as aforesaid, the decree of the Lower Court shall stand Confirmed in all other respects; and
5. That there be no order as to costs in this appeal.

//TRUE COPY//

SD/- N. SRIHARI
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Chairman, MACT- Cum -II Additional District Judge FAC IV Additional District & Sessions Judge(FTC), Nizamabad (With Records)
2. Two CD Copies

TJ

pmc

HIGH COURT

DATED: 30/06/2023

DECREE

MACMA. No.2028 of 2008

PARTLY ALLOWING THE MACMA

WPMG.
26/7/23.