

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

**FRIDAY THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE DR. JUSTICE G.RADHA RANI

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 1289 OF 2011

Appeal under Section 173 of Motor Vehicles Act against the order and decree in O.P.No. 672 of 1999, dated 10.12.2002, on the file of the Court of the Chairman Motor Accident Claims Tribunal Principal District Judge at Nalgonda.

Between:

Aedla Jalandhar, S/o. Madraiah, Student, R/o. Bopparam Village, Athmakur Mandal, Nalgonda District.

...PETITIONER/APPELLANT

AND

1. Chilukamarri Saroja, W/o. Chandra Mouli, Occ: Owner of Tractor and Trailor Nos. AP-24-U-478 and 479 R/o. H.No. 1-4-249/96/1, Balajinagar, Suryapet, Nalgonda District.
2. The Oriental Insurance Co. Ltd., D.O.I, Kothi, Hyderabad, rep. by its Manager.

...RESPONDENTS/RESPONDENTS

Counsel for the Appellant : SRI. KIRAN REDDY MALLARAPU

Counsel for the Respondent No.1 : ...

Counsel for the Respondent No. 2 : SRI A. V. K. S. PRASAD

The Court delivered the following: JUDGMENT

THE HONOURABLE Dr. JUSTICE G. RADHA RANI

M.A.C.M.A.No.1289 of 2011

JUDGMENT:

This Appeal is filed by the appellant - claimant aggrieved by the award and decree dated 10.12.2002 in O.P.No.672 of 1999 on the file of the Chairman, Motor Accidents Claim Tribunal (for short "MACT") (Principal District Judge), Nalgonda seeking enhancement of compensation.

2. The claim petition was filed by the minor claimant represented by his father and guardian under Section 166 of the Motor Vehicles Act claiming compensation of Rs.1,50,000/- for the injuries sustained by him in a motor vehicle accident. The case of the claimant was that he was aged 13 years at the time of the accident. He was a student of B-2 Hostel, Suryapet studying 9th Standard in the year 1996. On 29.08.1996 at about 12:30 PM while the minor claimant was coming towards Suryapet town from Khammam Bypass road on his cycle, a tractor bearing No.AP-24-U-478 with a load of paddy proceeding towards Khammam road driven by its driver in a rash and negligent manner, hit the petitioner's cycle, due to which the minor petitioner fell down and sustained injuries on his left leg, chest, etc., Immediately, he was shifted to Civil Hospital, Suryapet where he was given first-aid and was referred to Osmania General

Hospital, Hyderabad. The Police, Suryapet (Town) PS registered a case in Crime No.163 of 1996 under Section 337 of IPC.

3. It was further submitted that the petitioner took treatment as in-patient in Osmania General Hospital vide I.P.No.27043 from 29.08.1996 to 03.12.1996 and subsequently as an out-patient. The petitioner sustained fracture of left leg, fracture of right pelvis, grievous injuries on left thigh, ankle and right knee. The petitioner underwent operations twice in Osmania General Hospital. Due to the injuries sustained, the petitioner became permanently disabled. He lost his academic year and as such claimed compensation of Rs.1,50,000/- under various heads against the owner and insurer of the tractor and trailer bearing Nos.AP-24-U-478 and AP-24-U-479 respectively.

4. The respondent No.1 remained ex-parte.

5. The respondent No.2 filed counter and called for strict proof of the petition averments. The respondent No.2 contended that the compensation claimed was excessive and fanciful and prayed to dismiss the petition against him.

6. Basing on said pleadings, the Tribunal framed the issues and caused enquiry. The minor claimant examined himself as PW.1 and got marked Exs.A1 to A9. No oral or documentary evidence was adduced by the respondents.

7. On considering the oral and documentary evidence on record, the Tribunal awarded an amount of Rs.50,000/- towards compensation and held respondents 1 and 2 jointly and severally liable to pay the same along with interest @ 9 % per annum from the date of petition till the date of deposit. The Tribunal awarded a sum of Rs.25,000/- towards "pain and suffering" and Rs.25,000/- towards medical expenses.

8. Aggrieved by the said award and decree, the claimant preferred this appeal contending that the Tribunal erred in awarding only Rs.50,000/- towards compensation to the appellant and ought to have seen that the appellant - claimant sustained fracture of left leg, right leg, left thigh and on other parts of the body and ought to have granted Rs.1,50,000/- as claimed by him towards permanent disability, Rs.1,00,000/- towards "pain and suffering" and Rs.50,000/- towards medical expenses with interest @ 12 % per annum.

9. Heard Sri Kiran Reddy Mallarapu, learned counsel for the appellant and Sri A.V.K.S.Prasad, learned counsel for the respondent No.2 - Insurance Company.

10. Learned counsel for the appellant contended that no amount was awarded by the Tribunal towards grievous injuries sustained by the claimant, towards attendant charges, transportation, extra-nourishment, future medical expenses, loss of academic year, etc., and prayed to enhance the compensation.

11. Learned counsel for the respondent No.2 - Insurance Company on the other hand contended that the accident occurred on 29.08.1996, which was more than 27 years ago, as such, prayed to limit the interest from the date of the judgment.

12. On considering the award of the Tribunal, no amount was awarded by the Tribunal for the permanent disability, as Ex.A6 - disability certificate filed by the claimant was only a photo copy and the same was not proved by examining any witness. The Tribunal also stated that the original case sheet was summoned from Osmania General Hospital, which was marked as Ex.A8 and the same would not show that at the time of discharge there was any disability. No reasons were stated by the appellant for not filing the original disability certificate. As no doctor was examined in proof of the said certificate, this Court does not find any error in the award of the Tribunal in disbelieving the same.

13. However, as no amount is awarded towards the fracture injuries sustained by the claimant, though the discharge ticket of Osmania General Hospital, marked under Ex.A4 would disclose that he was admitted in the Hospital for more than three months from 29.08.1996 to 03.12.1996, it is considered fit to award an amount of Rs.25,000/- for the said injuries sustained by the minor claimant. As the minor claimant was admitted as in-patient in Osmania General

Hospital for a period of more than three months, some of the family members might have attended to him by leaving their work. But the Tribunal failed to award any amount towards attendant charges. Hence, it is considered fit to award an amount of Rs.10,000/- under this head.

14. As no amount is awarded towards transportation "to and fro" to the hospitals and towards extra-nourishment, it is considered fit to award an amount of Rs.5,000/- towards transportation and Rs.5,000/- towards extra nourishment. As no evidence was adduced to show that any medical expenses were incurred by the injured claimant after his discharge from Osmania General Hospital, no amount is awarded towards future medical expenses and as no evidence was adduced by the claimant that he lost his academic year, no amount is awarded under this head.

15. Hence, the compensation entitled by the appellant - claimant under various heads is as follows:

S. No.	Heads	Compensation Awarded
1.	Amount awarded for grievous injuries	Rs.25,000/-
2.	Pain and Suffering	Rs.25,000/-
3.	Medical Expenses	Rs.25,000/-
4.	Attendant Charges	Rs.10,000/-
5.	Transportation	Rs.5,000/-
6.	Extra-Nourishment	Rs.5,000/-
Total:		Rs.95,000/-

16. As such, it is considered fit to enhance the amount awarded by the Tribunal from Rs.50,000/- to Rs.95,000/-.

17. In the result, the M.A.C.M.A. is allowed enhancing the compensation from Rs.50,000/- awarded by the Tribunal to Rs.95,000/-. The enhanced amount would carry interest @ 7.5 % per annum from the date of filing the appeal. The respondent No.2 – Insurance Company is directed to deposit the above amount with interest within a period of two months from the date of receipt of a copy of this judgment, after deducting the amount deposited if any earlier. On such deposit, the claimant is entitled to withdraw the amount.

No order as to costs.

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

Sd/- Mohd. Sanaullah Ansari
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Chairman Motor Accident Claims Tribunal Principal District Judge at Nalgonda.(With records)
2. One CC to SRI. KIRAN REDDY MALLARAPU, Advocate [OPUC]
3. One CC to SRI. A. V. K. S. PRASAD, Advocate [OPUC]
4. Two CD Copies

DL

HIGH COURT

DATED:29/12/2023

JUDGMENT

MACMA.No.1289 of 2011



ALLOWING THE MACMA

⑥ NVV
2/3/24

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
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AND

1. Ch.Saroja, W/o. Chandra Mouli, Occ: Owner of Tractor and Trailor Nos. AP-24-U-478 and 479 R/o. H.No. 1-4-249/96/1, Balajinagar, Suryapet, Nalgonda District.
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Appeal under Section 173 of Motor Vehicles Act against the order and decree in O.P.No. 672 of 1999, dated 10.12.2002, on the file of the Court of the Chairman Motor Accident Claims Tribunal Principal District Judge at Nalgonda.

ORDER: 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. KIRAN REDDY MALLARAPU, Advocate for the Appellant and of SRI A. V. K. S. PRASAD, Advocate for the Respondents.

This Court doth Order and Decree as follows:

1. That the Motor Accident Civil Miscellaneous Appeal be and hereby is allowed enhancing the compensation from Rs. 50,000/- awarded by the Tribunal to Rs. 95,000/-;
2. That the enhanced amount would carry interest @ 7.5% per annum from the date of filing the appeal.
3. That the respondent No.2-Insurance Company be and hereby is directed to deposit the above amount with interest within a period of two months from the

date of receipt of a copy of this judgment, after deducting the amount deposited if any earlier;

4. That on such deposit, the claimant be and hereby entitled to withdraw the amount; and
5. That save as aforesaid, the decree of the Lower Court shall stands confirmed in all other respects

SD/- MOHD. SANAULLAH ANSARI
ASSISTANT REGISTRAR

//TRUE COPY//


SECTION OFFICER

To,

1. The Chairman Motor Accident Claims Tribunal Principal District Judge at Nalgonda
2. Two CD Copies

DL



HIGH COURT

DATED:29/12/2023

DECREE

MACMA.No.1289 of 2011

ALLOWING THE MACMA

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