

HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

MONDAY ,THE THIRTY FIRST DAY OF JULY
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 1031 OF 2011

Appeal filed under Section 173 of Motor Vehicles Act against the order and decree in O.P.No. 412 of 2006 dated 30.11.2010 on the file of the Court of the Chairman, Motor Accident Claims Tribunal – cum – VIII Additional District Judge, Nizamabad.

Between:

Syed Noor @ Mohd Noor, S/o.Mohd Khaleel, Age: 25 years, Occ:Electrician
R/o.H.No.9-13-140, Hajjam Colony, Nizamabad.

...APPELLANT

AND

1. A.Raghubeer Reddy, W/o.Mohan Reddy, Aged Major, Owner of Tractor No.AP 25 T 1942, Trailer No.AP 25 J 2907 R/o.Loka Nivas No.59, NGOs Colony, Nizamabad.
2. United India Insurance Co Ltd, rep by its Divisional Manager O/o.Divisional Office Godown Road, PB No.313, Nizamabad.

...RESPONDENTS

Counsel for the Appellant : Sri LAKKADI DAYAKER REDDY

Counsel for Respondent No.2 : Sri RAMA KRISHNA MALLOJHALA

Counsel for Respondent No.1 : None appeared

The Court delivered the following: JUDGMENT

THE HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO

M.A.C.M.A.NO.1031 OF 2011

JUDGMENT:

This M.A.C.M.A is filed under Section 173 of the Motor Vehicles Act, 1988 by the appellant/petitioner aggrieved by the order and decree dated 30.11.2010, passed in O.P.No.412 of 2006 by the Motor Accident Claims Tribunal (VIII Additional District Judge) at Nizamabad, (for short, "the Tribunal").

2. For convenience, the parties will be hereinafter referred to as they are arrayed before the Tribunal.
3. Brief facts of the case are that on 25.11.2003, while the petitioner was going on his motorcycle bearing No.AP-25J-0178, along with one Shaik Javeed, from Vinayakanagar to Nizamabad, and when they reached near Phulong bridge, Nizamabad at about 3.00 p.m., a Tractor bearing No.AP-25T-1942 and its trailer bearing No.AP-25J-2907, being driven by its driver at a high speed in a rash and negligent manner, lost control over the tractor, due to which the trailer of the tractor dashed against the motorcycle and as a result, the petitioner sustained injuries. Immediately, after the accident, the petitioner was shifted to Pragathi Nursing Home, Nizamabad, where he was given first aid and was referred to Sai Krishna

Super Specialty Neuro Hospital, Hyderabad. The appellant/petitioner filed the aforesaid O.P. against the owner and insurer of the said tractor and trailer, claiming compensation of Rs.6,00,000/- for the injuries sustained by the appellant/petitioner.

4. Before the Tribunal, respondent No.1 remained *ex parte*. Respondent No.2 filed a written statement denying the claim petition's averments and contended that the amount claimed is excessive, and prayed to dismiss the claim petition.

5. Based on the evidence on record, the Tribunal framed the following issues:

(i) Whether the accident has taken place due to rash and negligent driving of the Tractor bearing No.AP-25T-1942 and trailer bearing No.AP-25J-2907 by its driver?

(ii) Whether the petitioner is entitled for compensation. If so, to what just amount and against whom?

(iii) To what relief?

6. Considering the claim, counter and the evidence, both oral and documentary, brought on record, then Tribunal allowed the O.P. in part awarding compensation of Rs.40,000/- with interest at 7.5% p.a. from the date of petition till its deposit.

Challenging the quantum of compensation as meagre, the petitioner has filed the present appeal.

7. Heard both sides and perused the material available on record.

8. The short question that arises for consideration in this appeal is:

"Whether the compensation awarded by the Tribunal is just and equitable"?

9. Learned counsel for the appellant submits that the Court below did not grant any amount towards medical bills. But as per Ex.A9 and A11-medical bills, the petitioner has spent Rs.1,93,040/- towards medical bills and also submits that the petitioner is doing electrician work and is earning Rs.12,000/- per month, but the Tribunal has taken the income of the petitioner as Rs.100/- per day as per Ex.A2 charge sheet where the occupation of the petitioner was mentioned as private service and awarded Rs.3000/- for loss of monthly income and also stated that the petitioner has sustained one grievous injury and three simple injuries. Accordingly, prayed to enhance the compensation.

10. Learned counsel for respondent No.2/Insurance Company submits that the Tribunal has rightly awarded the amount under various heads and submits that due to non-examination of the doctors of Pragathi Nursing Home and Sai Krishna Super Specialty Neuro Hospital, the Tribunal did not award any amount towards medical bills.

11. In view of the above submissions made by the learned counsel for appellant/petitioner, this Court grants Rs.1,00,000/- towards medical bills as the injuries were proved and unless the treatment as stated to be taken by the petitioner is not true, the petitioner would not have recovered. The Tribunal granted Rs.30,000/- compensation for injuries, pain and suffering as the petitioner sustained four simple injuries and one grievous injury. The Tribunal granted Rs.2,000/- compensation towards attendant charges and Rs.3,000/- towards transportation, which is meagre and it is enhanced to Rs.5,000/- for attendant charges and Rs.8,000/- for transportation. The Tribunal granted Rs.2,000/- compensation towards extra nourishment, and this Court is inclined to enhance the amount to Rs.5,000/- towards that head. This Court feels that some compensation should be awarded towards the injuries sustained by the petitioner. This Court grants

Rs.20,000/- for one grievous injury and Rs.10,000/- each to four simple injuries (Rs.20,000 x 1 = 20,000/- + Rs.10,000 x 4 = 40,000/- = Rs.60,000/-), under the head 'injuries'. As the petitioner had taken two months of bed rest and the Tribunal granted Rs.3,000/- for loss of income for one month, as per **Ramachandrappa Vs. Royal Sundaram Alliance Insurance Co.Ltd¹**, the monthly income of the petitioner is fixed at Rs.4,500/. Therefore, loss of income for two months comes to Rs.9,000/- (Rs.4,500/- x 2).

Therefore, this Court is inclined to enhance the quantum of compensation as under:

Sl.No	Nature of head	Amount awarded by Tribunal	Amount awarded by this Court
1.	Pain and Suffering, injuries	Rs.30,000/-	-
2.	Injuries	Nil	Rs.60,000/- (Rs.20,000 for one grievous injury, Rs.10,000/- each for 4 simple injuries)
3.	Attendant charges	Rs.2,000/-	Rs.5,000/-
4.	Transportation charges	Rs.3,000/-	Rs.8,000/-
5.	Extra Nourishment	Rs.2,000/-	Rs.5,000/-
6.	Loss of Income	Rs.3,000/-	Rs.9,000/-
7.	Medical bills	-	Rs.1,00,000/-
	Total	Rs.40,000/-	Rs.1,87,000/-

12. In the result, the MACMA is allowed in part by enhancing the compensation awarded by the Tribunal from Rs.40,000/- to **Rs.1,87,000/-** (Rupees One Lakh Eighty Seven Thousand only) with interest at 7.5% per annum from the date of petition till the date of realization. The respondents are directed to deposit the compensation amount with costs and interest after giving due credit to the amount already deposited, if any, within a period of two (02) months from the date of receipt of a copy of this judgment. The petitioner is permitted to withdraw the entire amount on such deposit. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

Sd/- A.V.S.PRASAD
ASSISTANT REGISTRAR
//TRUE COPY//
SECTION OFFICER

To,

1. The Chairman, Motor Accident Claims Tribunal – cum – VIII Additional District Judge, Nizamabad. (with records)
2. One CC to Sri. LAKKADI DAYAKER REDDY Advocate [OPUC]
3. One CC to Sri RAMA KRISHNA MALLOJHALA, Advocate [OPUC]
4. **Two CD Copies**

Kp/njb

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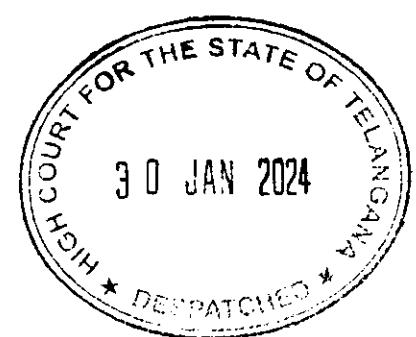
HIGH COURT

RRN,J

DATED:31/07/2023

JUDGMENT + DECREE

MACMA.No.1031 of 2011



**PARTLY ALLOWING THE MACMA
WITHOUT COSTS**

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12/1/24
TNO

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MONDAY, THE THIRTY FIRST DAY OF JULY
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Appeal filed under Section 173 of Motor Vehicles Act against the order and decree in O.P.No. 412 of 2006 dated 30.11.2010 on the file of the Court of the Chairman, Motor Accident Claims Tribunal – cum – VIII Additional District Judge, Nizamabad.

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 MVOP and upon hearing the arguments of Sri LAKKADI DAYAKER REDDY, Advocate for the Appellant and of Sri RAMA KRISHNA MALLOJHALA, Advocate for the Respondent No.2 and None appeared for Respondent No.1.

This Court doth Order and decree as follows:-

1. That the MACMA be and hereby is allowed in part by enhancing the compensation awarded by the tribunal from Rs.40,000/- to Rs.1,87,000/- with interest at 7.5% per annum from the date of petition till the date of realization

2. That the respondents are directed to deposit the compensation amount with costs and interest after giving due credit to the amount already deposited, if any, within a period of two(02) months from the date of receipt of a copy of this judgment
3. That the petitioner is permitted to withdraw the entire amount on such deposit.
4. That save as aforesaid, the decree of the Lower Court shall stands confirmed in all other respects; and
5. That there shall be no order as to costs in this appeal.

Sd/- A.V.S.PRASAD
ASSISTANT REGISTRAR


//TRUE COPY//

SECTION OFFICER

To,

1. The Chairman, Motor Accident Claims Tribunal – cum – VIII Additional District Judge, Nizamabad.
2. Two CD Copies

Kp/njb



HIGH COURT

DATED:31/07/2023

DECREE

MACMA.No.1031 of 2011

**PARTLY ALLOWING THE MACMA
WITHOUT COSTS**

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12/11/24
HVS