

IN THE HIGH COURT FOR THE STATE OF TELANGANA  
AT HYDERABAD

TUESDAY, THE THIRTY FIRST DAY OF JANUARY  
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE SMT. JUSTICE LALITHA KANNEGANTI

**MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 4080 OF 2008**

Appeal filed under Section 173 of M.V. Act aggrieved by the orders passed by the Judgment and decree dated 13-03-2007, made in O.P.No. 498 of 2004 on the file of the Chairman, Motor Accident Claims Tribunal (District Judge) at Nizamabad.

**Between:**

Smt Shetari Shantamma, W/o. Late Sanjeevulu, Aged: 30 years, Occ: Agriculture & Labour, R/o. Pitlam Village & Mandal, Nizamabad District

...PETITIONER

**AND**

1. Andhra Pradesh State Road Transport Corporation, rep. by its Depot Manager, Banswada (Owner of Bus No.AP-9/Z-6600)
2. Andhra Pradesh State Road Transport Corporation, rep. by its Managing Director Musheerabad, Charminar X Roads, Hyderabad

...RESPONDENTS

**Counsel for the Appellant : Sri KOTA SUBBA RAO**

**Counsel for the Respondents : Sri THOOM SRINIVAS**

**The Court delivered the following: JUDGMENT**

**HON'BLE SMT. JUSTICE LALITHA KANNEGANTI**

**M.A.C.M.A. No.4080 of 2008**

**JUDGMENT :**

This appeal is preferred by the appellant/claimant aggrieved by the judgment passed by the Motor Accidents Claims Tribunal (District Judge) at Nizamabad in O.P.No.498 of 2004, dated 13.03.2007.

2. The brief facts of the case are that on 26.02.2004 the claimant was travelling in the auto and at about 8.30 p.m. when she reached outskirts of Pitlam village, one RTC bus came from opposite direction at high speed in a rash and negligent manner and dashed against the auto, due to which, the claimant sustained fracture to mandible, 6 upper teeth loosened, other teeth also loosened, injuries on mouth, right knee joint, forehead, left hip, right knee joint, back, left side of chest, four lower teeth and other teeth loosened and fracture of left hand dorsum of left thumb and other injuries all over the body. The claimant was taken to Primary Healthcare Centre, Pitlam, from there to Government Area Hospital, Banswada, where she was treated as inpatient for one month, sutures applied to upper lip, forehead, right knee and spent an amount of Rs.75,000/- for treatment. Thus, the claimant sought compensation of Rs.3,00,000/-.

3. The first respondent—Corporation filed written statement in the O.P. denying the averments of the petition, age, occupation, income of the claimant and injuries sustained by her in the accident. It is stated that the accident was occurred due to the negligence of the driver of the auto, who drove it at high speed and dashed the bus.

4. The Tribunal on analyzing the evidence held that the accident occurred due to rash and negligent driving of the driver of the bus and awarded compensation of Rs.69,826/- with interest at 7.5% per annum from the date of petition till the date of realisation.

5. Learned counsel for the appellant/claimant submitted that the doctor-PW.2, who is a Civil Assistant Surgeon, has deposed that the appellant suffered 25% permanent partial disability. But, the Court below has given a lumpsum amount of Rs.25,000/- and has not considered the 25% disability of the claimant. He submits that no amount was awarded under the heads of transport and attendant benefits by the Court below. It is submitted that even for the income of the claimant, the Court below has considered only Rs.3,000/- per month. The claimant is having land and also doing labour work. It is submitted

that as per the law laid down by the Apex Court in **Ramachandrappa Vs. Manager, Royal Sundaram Alliance**<sup>1</sup>, the Court below ought to have taken the monthly income of the appellant as Rs.4,500/- per month. Therefore, prayed for re-assessment and to award just compensation.

6. Sri T.Srinivas, learned Standing Counsel for the respondent – Corporation submits that the claimant has not produced any evidence with regard to the income and the Court below has rightly taken the income of Rs.3 000/- per month. He submits that as far as the disability of the claimant is concerned, no certificate is filed and no evidence is let in. As such the Court below has not considered the said disability of 25%. He further submits that the compensation that is granted by the Court below is just and reasonable.

7. Coming to the income of the claimant, as she is owning agricultural land as well as doing labour work, without even considering the land owned by the claimant, the Court below granted only Rs.3,000/- per month. This Court has gone through the judgment of the Apex Court in Ramachandrappa (supra), in the similar set of

facts, where, the deceased therein was a labourer and the Tribunal has rejected to consider the monthly income of the deceased at Rs.4,500/-, the Apex Court has held that the labourer cannot produce any evidence for his daily income and Rs.4,500/- is a reasonable income. Hence, in the present case also it would be appropriate to consider the monthly income of the claimant as Rs.4,500/-.

8. As far as the disability aspect is concerned, the evidence of the Doctor is that the claimant has suffered 25% permanent partial disability. Though there was no discussion by the Court below, the Court below has granted an amount of Rs.25,000/- towards disability. When the Court below has accepted the disability, without any basis Rs.25,000/- was granted. Hence, this Court is of the view that the disability can be taken at 25% basing on the evidence of the doctor.

9. The claimant was aged about 30 years at the time of accident and the appropriate multiplier is 17. Hence, the claimant is entitled to an amount of  $Rs.4,500 \times 12 \times 17 \times 25\% = Rs.2,29,500/-$  and 40% future prospectus would be Rs.91,800/-. The claimant is entitled a sum of Rs.3,21,300/- towards loss of income.

10. The Court below granted an amount of Rs.1,814/- towards medical expenses basing on the medical bills, which requires no interference.
11. Under the head of loss of earnings, the Court below observed that on account of the injuries, the claimant could not have attended the work for about two months and awarded an amount of Rs.6,000/- i.e., Rs.3,000/- per month. The income of the claimant is taken at Rs.4,500/-. Hence, the claimant is entitled to an amount of Rs.9,000/- (Rs.4,500/- per month) towards loss of earnings.
12. Under the head of pain and suffering, the Court below has granted an amount of Rs.25,000/-, which requires no interference. For the attendant benefits, no amount is granted. Hence, an amount of Rs.10,000/- is granted towards attendant benefits.
13. Under the head of transportation charges. Hence, the claimant is entitled to an amount of Rs.5,000/- towards transportation charges.
14. Learned counsel for the appellant/claimant has relied on the order

passed by the Apex Court in **V.Mekala v. M.Malathi and another**<sup>2</sup>, wherein the Apex Court, taking into consideration the date of the accident and till the appeal reached to the Apex Court, has awarded a sum of Rs.25,000/- towards cost of litigation. Hence, an amount of Rs.12,000/- is awarded towards cost of litigation.

15. In the light of the above discussion, the claimant is entitled to the following amounts:

|                           |   |                       |
|---------------------------|---|-----------------------|
| 1. Loss of income         | : | Rs. 3,21,300/-        |
| 2. Transportation charges | : | Rs. 5,000/-           |
| 3. Pain and suffering     | : | Rs. 25,000/-          |
| 4. Loss of earnings       | : | Rs. 9,000/-           |
| 5. Attendant charges      | : | Rs. 10,000/-          |
| 6. Medical bills          | : | Rs. 1,814/-           |
| 7. Litigation charges     | : | Rs. <u>12,000/-</u>   |
| TOTAL :                   |   | Rs. <u>3,84,144/-</u> |

16. In the result, the appeal is allowed enhancing the compensation amount awarded by the Tribunal from Rs.69,826/- to Rs.3,84,144/-

(Rupees three lakhs eighty four thousand one hundred and fourteen only) as hereunder:

- (a) The enhanced amount shall carry interest at 7.5% p.a. from the date petition till the date of realization.
- (b) The claimant shall pay the court fee on the enhanced amount of compensation.
- (c) The Insurance Company shall deposit the amount within a period of eight weeks from the date of receipt of a copy of the judgment. On such deposit, the claimants are entitled to withdraw the entire amount without furnishing the security.

Miscellaneous applications, pending if any, shall stand closed.

Sd/- K. VENKAIAH  
ASSISTANT REGISTRAR  
SECTION OFFICER

To,

1. The Chairman, Motor Accident Claims Tribunal (District Judge) at Nizamabad.
2. One CC to Sri KOTA SUBBA RAO, Advocate [OPUC]
3. One CC to Sri THOOM SRINIVAS, Advocate [OPUC]
4. Two CD Copies

NJB



**HIGH COURT**

**LK,J**

**DATED:31.01/2023**

**JUDGMENT**

**MACMA.No.4080 of 2008**

**ALLOWING THE MACMA**

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TMB  
10-28/4/2023