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APHC010899582017

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

MONDAY, THE 2nd DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 2958/2017

Between:

1. P. DHANASEKHAR NAIDU,, S/O P. KRISHNAMA NAIDU, AGED ABOUT 45 YEARS, 0CC: AGRICULTURE AND BUSINESS, R/O EGUVA CHAVATAPALLE VILLAGE, MUDIGOLARN POST, IRALA MANDAL, CHITTOOR DISTRICT.

...APPELLANT

AND

1. A VINOD KUMAR, S/O.AGASTIN, AGED ABOUT NOT KNOW TO THE PETITIONER, R/O D. NO. 3-141, RASANAPALLE VILLAGE, PAPICHETTY PALL POST, GUDIPALA MANDAL, CHITTOOR DISTRICT.
2. M/S NEW INDIA ASSURANCE COMPANY LTD, REPRESENTED BY ITS BRANCH MANAGER, HAVING ITS OFFICE AT PRAKASAM HIGH RAOD, CHITTOOR TOWN AND DISTRICT.
3. R SUBRAMANYAM, S/O. LAKSHMAIAH, AGED ABOUT 45 YEARS, DRIVER, R/O KALIJAVEDU VENKATAPURAM VILLAGE AND POST, G.D. NELLORE MANDAL, CHITTOOR DISTRICT.

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Court aggrieved by the Award and Decree dated O4-8-2017 in MVOP No. 153 of 2013 on the file of the Motor Accident Claims Tribunal cum VIII Additional District Judge,

Chittoor in so far as the Hon'ble Tribunal had not awarded in full the sum of Rs. 20,00,000/- claimed by the appellant herein present this Memorandum of Motor Accident Civil Miscellaneous Appeal to this Hon'ble Court for the following

IA NO: 2 OF 2017(MACMAMP 40381 OF 2017

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

Counsel for the Appellant:

1. C JHANSI RANI

Counsel for the Respondent(S):

1. KESAVI KUMARI NEMALA
2.

The Court made the following:

THE HON'BLE SMT. JUSTICE SUNITHA GANDHAM

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 2958 OF 2017

JUDGMENT:

This Motor Accident Civil Miscellaneous Appeal is filed against the award and decree dated 04.08.2017 in M.V.O.P.No.153 of 2012 passed by the Chairman, Motor Accidents Claims Tribunal-Cum-VIII Additional District Judge, Chittoor, petitioner preferred the instant appeal seeking enhancement of compensation.

2. The parties are being referred to as 'petitioner' and 'respondents' as arrayed in the petition before the tribunal, for the sake of convenience and clarity.

3. Case of the petitioner is thus:

On 29.06.2011, at 12 noon, while the petitioner was going on his motor cycle along with one Rajendra Achari and when he reached Chittetivanka bridge in between Rangampeta cross and Puthalapattu village, on Chittor-Kadapa road, driver of Tata Luggage auto bearing No.AP-03/U-9795, drove the same in a rash and negligent manner and dashed against their motor cycle and as a result of which, they fell down and sustained multiple injuries. A case in Crime No.79 of 2011 is registered of the offence under sections 338 and 279 of I.P.C against the respondent no.1 and after completion of investigation, police filed charge sheet in C.C.607 of 2011. As on the date of the accident, petitioner was doing carpentry work in R & B Circle, Chittor and was earning Rs.1,00,000/- per annum from contract works and cultivation and cultivation. Immediately after the accident, he was admitted in C.M.C. Hospital, underwent surgeries and thereafter, admitted in MIOT Hospital, Chennai and there also, he underwent surgery due to the said treatment, the petitioner incurred expenditure towards treatment, the petitioner sustained

disability at 60% and his motor vehicle also badly damaged and for which, he spent Rs.75,000/-. Respondent No.1 is the owner, respondent No.2 is the insurance company and respondent No.3 is the driver of the Tata Luggage auto bearing No. AP-03/U-9795 and as such, respondents are liable to pay compensation.

4. Respondent No.1 filed written statement denying the averments made in the petition and by contending that the offending vehicle was insured with respondent No.2, the same was in force as on the date of accident, respondent No.3 had driving license, and with other formal denials, prayed to dismiss the petition against him.

5. Respondent No.2 filed written statement contending that the petitioners claimed excessive compensation, they have to prove the injuries and treatment of the petitioner, and with other formal denials, prayed to dismiss the petition. Respondent No.3 also filed written statement contending that the accident had not occurred due to his rash and negligent driving.

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

1) Whether the accident in question was caused duet to the rash and negligent driving of the driver of the TATA AP03/U-9795 or the petitioner himself riding the Hero Honda Motor cycle bearing No.AP-03/AL-9511?
2) Whether the petitioner is entitled for any compensation? If so, to what amount and from whom?
3) To what relief?

7. During trial, petitioner himself examined as PW.1 and he has got examined PWs. 2 to 5, and filed Exs.A1 to A30 documents. As against the said evidence, respondent No.2 has got examined its employee as RW.1, and filed Exs.B1 and B2 documents.

8. Heard both sides.

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

1. Whether the petitioner sustained injuries in the accident dated 29.06.2011 occurred due to rash and negligent driving of respondent No.3?
2. Whether the petitioner is entitled for compensation? If so, to what amount?
3. Whether the Award and decree passed by the learned tribunal are sustainable in facts and law?
4. To what relief?

10. Admittedly, respondents have not preferred any appeal challenging the findings of the learned tribunal, however, being the first appellate court and final fact finding court, this court has to re-examine and re-appreciate the entire oral as well as documentary evidence on record.

11. Point No.1:

(a) Now, it is necessary to analyze the evidence available on record. During trial, petitioner filed examination in chief affidavit in lieu of his chief examination by reiterating the averments made in the petition and in his direct evidence, he has stated that on 29.06.2011, while he was going on his motor cycle along with ne Rajendra Achari and when he reached Chittetivanka bridge, respondent No.3 drove the Tata Luggage auto bearing No.AP-03/U-9795 in a rash and negligent manner and dashed against their motor cycle and as a result, they fell down, he sustained multiple injuries and immediately after the accident, he was shifted to C.M.S Hospital and the accident occurred due to the rash and negligent driving of respondent No.3 and as such, a case in Crime No.79 of 2011 is registered of the offences under section 338 and 279 of I.P.C. Nothing useful material is elicited in the cross examination of PW. 1.

(b) Admittedly, the respondents have not filed any cross appeal or cross-objection challenging the findings of the learned Tribunal. Added to it, the evidence of PW1 coupled with Exs. A1 /Certified copy of F.I.R and A2 / Certified copy of Charge Sheet clearly proves that the accident occurred due to the rash and negligent driving of respondent No3. As seen from Ex.A3/ Certified copy of wound certificate, petitioner sustained injuries in the accident dated 29.06.2011. As per the materials available on record, this court is of the considered view that the accident occurred due to the rash and negligent driving of respondent No.3. Hence, this point is answered in the affirmative and in favour of the petitioner.

12. Point No.2:

(a) As per the version of the petitioner, he was hale and healthy, was aged about 40 years, was doing carpentry work in R & B Circle, Panchayat Raj Rural Water and Sanitation Irrigation Services and was earning Rs. 1,00,000/- per annum and further, he owned agricultural lands and in which, he was raising sugarcane, ground nuts and was earning Rs.70,000/- per annum, on 29.06.2011, he sustained injuries, admitted in CMC Vellore Hospital, took treatment from 30.06.2011 to 11.07.2011, underwent surgeries twice to his right leg from implant are inserted and again on 20.08.2011, he was admitted in the hospital and took treatment till 27.08.2011, spent Rs.1,30,000/- towards treatment, he has also taken treatment as outpatient till 14.11.2011 and further spent Rs.25,000/- towards transportation charges. Further, on 15.11.2011, he admitted in MIOT Hospital, Chennai, underwent three surgeries to his right leg and was discharged on 16.12.2011 and then also, he incurred an amount of Rs.2,40,000/- towards treatment and Rs.50,000/- towards medicines. It is his further evidence that the injuries are not healed, he has to sustain disability at 60% and due to the disability, he is not in a position to attend carpentry works and cultivation.

(b) As seen from EX.A.3/wound certificate and other crime records, the petitioner was aged about 40 years as on the date of accident. There is no contra evidence to that effect. So it can safely be concluded that he was aged about 40 years, as on the date of accident.

(c) Insofar as income of the deceased is concerned, he has got examined VRO of Mudigulam Village as PW5 and he testified that PW.1 owned Ac.4.25 cents wet land in Eguva Chavatapalli village and in the said lands, sugarcane and groundnuts were being planted by the petitioner, as on the date of accident and due to the injuries, petitioner has not been doing cultivation. PW.5 admitted EX.A19/Certificate and except posing suggestions that Ex.a19 is fabricated, nothing useful material is elicited in the cross examination of PW. To show that he was doing contract works, petitioner filed EX.A.17 and A.18/Proceedings issued by the Executive Engineer P.R Division, Chittoor and Executive Engineer R & B Chittoor respectively. Further, he had filed Exs.A7 to A9/income tax returns for the years 2008 to 2010. In this regard, it is to be noted that in ***Malavizhi and others Vs.United India Insurance Company limited and others***[1], the Hon'ble Apex Court held the Income Tax return is a statutory document on which, reliance may be placed to determine the annual income of the deceased. So, as per EXs.A.7 toA.9, average yearly income of the petitioner comes to 1,45,000/- and the same shall be considered.

(e). Insofar as the injuries and treatment of the petitioner are concerned, PW.2/Doctor testified that on 30.06.2011, the petitioner was admitted in their hospital with the injuries of open right plating knee (Fraser – II B, T.S. Chenr, Gr. III) and closed left clavicle fracture (R. Man Group-I) and accordingly, he conducted surgery, debridement was done on 01.07.2011 and debridement + arthrodesis of the right knee (with transarticular ortho) was done on 05.07.2011 and again, on 21.08.2011, the petitioner admitted in their hospital, underwent readjustment for Orthofix on 23.08.2011 and he was discharged

[1] 2020 4 SCC 228

vide Ex.A16. PW.2 admitted EXs.A10, A11 and A16, X2, X3 and X4/ Consolidated medical bills for Rs.91,361/- and Rs.22,742/-, discharge summary, outpatient and admission cards respectively. It is his further evidence that he advised the petitioner to undergo another surgery, as the corrected alignment was not acceptable. Finally, he testified that the petitioner cannot attend cultivation works, cannot bend his right knee and cannot perform daily activities, he has shortening of the right lower limb, difficulty in his family activities and mild restrictions of right ankle dorsiflexion.

(f). Further, PW.3/Senior consultant orthopaedic surgeon at MIOT Hospital, Chennai testified that on 15.11.2011, the petitioner was admitted in their hospital with an old infected non-union femur, proximal tibia with an ankle, loose knee joint on the right side and foot drop, he conducted surgeries on 16.11.2011 and on 24.11.2011, he performed knee ortho and hematoma evacuation surgeries on 16.11.2011, 24.11.2011 and 05.12.2011 and the petitioner was discharged on 07.12.2011, and he admitted Ex.A13, Ex.A14, Ex.A21 and A22/ Consolidated bill for Rs.2,38,361/-, discharge summary, bunch of medical bills for Rs.14,000/- and Rs.9,184/- respectively.

(g). PW.4 who had issued EX.A12/Disability certificate had stated that on 17.01.2012, he had examined the petitioner and after perusing the medical record of the petitioner, he had assessed the disability of the petitioner at 60% vide EX.A12, and nothing useful material is elicited in the cross examination of PW.3. So, the evidence of PW Nos. 1 to 4 coupled with Exs.A.3, A.10 to A.14, A.16, A.21, A.22, A.24, A.25, A.28 to A.30, X.2 to 4, petitioner sustained multiple grievances injuries, underwent several surgeries, took treatment in two hospitals as in patient for nearly six months, incurred Rs.3,75,648/-, sustained disability at 60%, lost income, incurred expenditure towards transportation, he has to undergo future surgeries and has to incur future medical expenses.

(h) With regard to the functional disability, in view of the decision of Hon'ble Apex court in ***Raj Kumar Vs. Ajay Kumar and another***[2], this court has to consider the following three aspects to ascertain the effect of permanent disability on the actual earning capacity:

> "Firstly, what activities the claimant could carry on in spite of the permanent disability and what he could not do as a result of the permanent disability (this is also relevant for awarding compensation under the head of loss of amenities of life).
>
> Secondly, his avocation, profession and nature of work before the accident, as also his age.
>
> Thirdly, whether (i) the claimant is totally disabled from earning any kind of livelihood, or (ii) whether in spite of the permanent disability, the claimant could still effectively carry on the activities and functions, which he was earlier carrying on, or (iii) whether he was prevented or restricted from discharging his previous activities and functions, but could carry on some other or lesser scale of activities and functions so that he continues to earn or can continue to earn his livelihood."

Further, in the same case of ***Raj Kumar*** (Supra) Hon'ble Apex Court held as follows:

> "19. We may now summarize the principles discussed above:
>
> (i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.
>
> (ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that the percentage of loss of earning capacity is the same as the percentage of permanent disability).
>
> (iii) The doctor who treated an injured claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard to the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.
>
> (iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors."

[2] (2011) 1 SCC 343

(i) Having considered the injuries, treatment taken by the petitioner, nature of the work and to her allied aspects, the learned Tribunal considered the functional disability at 60% and the same can be considered. The details of compensation under each head are as follows:

I. Pecuniary Damages:

i) **Loss of earnings due to disability and future prospects:**

Having considered the nature of work, age and other allied aspects, this court assessed the functional disability of the petitioner at 60%. In ***Sarla Verma v. Delhi Transport Corporation***[3], 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 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, the 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 40 years, as on the date of accident and the relevant multiplier is '15'.

Further, in ***National Insurance Company Limited Vs. Pranay Sethi & others***[4], three Judge bench of Hon'ble Apex Court has considered the claim for future prospects of a victim, a carpenter, who has suffered permanent disability.

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[3] (2009) 6 SCC 121
[4] *(2017) 16 SCC 680*

(ii).**Loss of earnings (past):**

It is common knowledge that without a reasonable physical fitness, one cannot do any work. In the light of the evidence on record, injuries sustained and treatment received by the petitioner and also taking into consideration of the time required for recovery, it is reasonable to accept that the injured was out of the work at least 12 months. Accordingly, a sum of Rs.1,45,000/- is awarded.

(iii) **Medical Expenses:**

As per the evidence of PWs.1 to 4 coupled with EXs.A.10,11,13,21 and 22, petitioner incurred an amount of Rs.3,75,648/-, towards treatment. So, the same is to be considered.

(iv) **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***[5]***,*** the Court need not be mathematical in calculating expenses towards home attendant, but ought to look upon the circumstances prevailing in the society to decide the amount and in the present case at hand, the petitioner took treatment and underwent surgeries, was advised bed rest and also follow up treatment, and as such, she is entitled to attendant charges for two months, which are assessed at Rs.24,000/-.

(v) **Loss of Conveyance:**

In ***Sidram Vs. The Divisional Manager, United India Insurance Company Limited and another***[6] (Supra), the Hon'ble Apex Court held at para No.89 as follows:

> "89. Hence, we may grant the appellant loss of conveyance and special diet up to Rs.50,000/- considering that after the accident at Kulgod-Gokak Road, the appellant was shifted to Lake view Hospital Belgaum wherein he was admitted as an indoor patient from 18.07.2012 to

[5] 1995 1 SCC 551
[6] (2022) 8 SCR 403

06.08.2012 for 19 days, and took treatment for the injuries suffered by him, and continued to take the treatment after getting discharged from the Hospital as well."

Having considered the injuries and treatment she has taken, an amount of Rs.25,000/- is awarded towards conveyance.

II. Non-Pecuniary Damages:

(i) Pain and Suffering:

The Divisional Controller, KSRTC v. Mahadeva Shetty and Another[7]***,*** 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 and the period of treatment taken by her, an amount of Rs.2,00,000/- is awarded towards pain and suffering.

(ii) Loss of Amenities:

a) In ***Pappu Deo Yadav Vs. Naresh Kumar and others***[8], the Hon'ble Apex Court held thus:

> "The principle consistently followed by this court in assessing motor vehicle compensation claims, is to place the victim in as near a position as she or he was in before the accident, with other compensatory directions for loss of amenities and other payments. These general principles have been stated and reiterated in several decisions (Govind Yadav Vs. New India Insurance Co Limited, (2011) 10 SCC 683."

[7] 2003 (7) SCC 197
[8] AIR 2020 SCC 4421

Having regard to the injuries and treatment, an amount of Rs.10,000/- is awarded towards loss of amenities.

b) Further, in ***Govind Yadav Vs. New India Insurance Co Limited***[9], Hon'ble Apex Court held thus:

> "18. In our view, the principles laid down in Aravind Kumar Mishra Vs. New India Assurance Company Limited (2010) 10 SCC 264 and Raj Kumar Vs. Ajay Kumar must be followed by all the Tribunals and the High Courts in determining the quantum of compensation payable to the victims of accident, who are disabled either permanently or temporarily . If the victim of the accident suffers permanent disability, then efforts should always be made to award adequate compensation not only for the physical injury and treatment, but also for the loss earning and his inability to lead a normal life and enjoy amenities, which he would have enjoyed but for the disability caused due to the accused".

c) So, in all, the petitioner is entitled to the compensation as follows:

S.No.	HEADS		CALCULATION
I	**Pecuniary damages:**		
i)	Loss of earnings due to disability 1,45,000*15*60/100=21,75,000	Rs.	13,05,000-00
ii)	Future Prospects 13,05,000*25%=3,26,250	Rs.	3,26,250-00
iii)	Loss of earnings (past) for 12 months	Rs.	1,45,000-00
iv)	Medical expenses (spent)	Rs.	3,75,648-00
v)	Attendant charges	Rs.	24,000-00
vi)	Conveyance charges	Rs.	25,000-00
vii)	Future medical expenses		
II	**Non Pecuniary expenses:**		
vii)	Pain and suffering	Rs.	2,00,000-00
viii)	Loss of amenities	Rs.	10,000-00
	TOTAL (pecuniary+ non-pecuniary damages)	Rs.	**24,10,898-00 rounded to 24,10,900-00**

[9] (2011) 10 SCC 683

d) In this court's well considered view that in accordance with the propositions of law laid down by the Hon'ble Apex Court, the compensation of Rs.**24,10,900/- (Rupees Twenty Four Lakhs Ten Thousand Nine Hundred only)** is just and reasonable. It is needless to say that though the petitioner claimed compensation of Rs.20,00,000/-, in view of the settled principles of law, just and fair compensation is to be awarded to the petitioner.

e) 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 the driver of Tata Luggage auto bearing No.AP-03/U-9795 was solely responsible for the accident and respondent No.1/owner is vicariously liable for the acts committed by his driver and it is not in dispute that the policy of the offending vehicle was in force as on the date of accident and as such, respondent No.3 to liable to indemnify the respondent No.1/insured. Hence, this issue is answered, holding that the respondent Nos.1 to 3 are jointly and severally liable to pay compensation.

13. Point No.3:

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

14. 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.10,88,102/- (Rupees Ten Lakhs Eighty Eight Thousand One Hundred And Two Only)** to Rs.**24,10,900/- (Rupees Twenty Four Lakhs Ten Thousand Nine 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 thereto, pending miscellaneous petitions, if any, shall stand closed.

SUNITHA GANDHAM, J

Dt:26.10.2026
SSA/knl