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APHC010135362014



**IN THE HIGH COURT OF ANDHRA PRADESH  
AT AMARAVATI  
(Special Original Jurisdiction)**

**[3520]**

WEDNESDAY, THE 1<sup>st</sup> DAY OF JULY 2026

**PRESENT**

**THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA**

**MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 569/2014**

**Between:**

1.KARROTHU SATYAM, S/O.LATE APPALANAIDU, HINDU R/O.KELLA [V], GURLA [M], VIZIANAGARAM DISTRICT.

**...APPELLANT**

**AND**

1.BONGA KANNAPPADORA KANAKARAJU 2 ORS, S/O.LATE APPALASWAMY OCC: DRIVER OF TRUCK NO.AP 15 X 3767 R/O.KONDAYYPALEM [V], NEAR RAJAPULOVA [V], DENKADA [M], VIZIANGARAM DISTRICT.

2.Y ANANDA REDDY, S/O.RAMA REDDY, HINDU OCC: OWNER OF TRUCK NO.AP 15 X 3767 R/O.D.NO.380/904/1, JYOTHI NAGAR, MARRIPALEM, VISAKHAPATNAM.

3.NEW INDIA ASSURANCE CO LTD, REP BY ITS DIVISIONAL MANAGER O/O.SRIKAKULAM. [R1 IS DRIVER, HENCE HE IS NOT A NECESSARY PARTY]

**...RESPONDENT(S):**

Appeal filed under Order 41 of CPC before the High Court

**IA NO: 1 OF 2013(MACMAMP 209 OF 2013)**

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 condone the delay of 86 days in re-presenting the MACMASR No.41948/2012

**IA NO: 4 OF 2013(MACMAMP 648 OF 2013)**

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 to condone the delay of 154 days in filing the appeal and to pass

**Counsel for the Appellant:**

1.JAYANTI S C SEKHAR

**Counsel for the Respondent(S):**

1.K JYOTHI PRASAD

2.I MAAMU VANI

3.C PRAKASH REDDY

**The Court made the following:**

**THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA****M.A.C.M.A. No. 569 of 2014****JUDGMENT:****Introductory:**

The claimant in MVOP No.833 of 2009 on the file of the Court of I Additional District Judge- Family Court- the Motor Accidents Claims Tribunal, Vizianagaram [for short "the learned MACT"], feeling dissatisfied with the award and decree dated 31.12.2011 passed therein, whereunder a compensation of Rs.2,23,000/- was awarded against a claim made for Rs.3,50,000/-, filed the present appeal, questioning the compensation awarded as inadequate.

2. 1<sup>st</sup> respondent is the driver, 2<sup>nd</sup> respondent is the owner, and 3<sup>rd</sup> respondent is the insurer of the Truck bearing number AP 15 X 3767 [*herein after referred as 'the offending vehicle'*].

3. For the sake of convenience, the parties will be hereinafter referred to as the claimant/petitioner and the respondents, with reference to their status before the learned MACT.

**Case of the claimant/petitioner:-**

4. [i] On 26.03.2009, when the claimant/petitioner was riding his motor cycle bearing No.AP 26 H 8341 on the left side of the road near Gurla Police

Station at about 18 hours, the 1<sup>st</sup> respondent, being the driver of the offending vehicle, came in a rash and negligent manner and dashed against the motorcycle on which the petitioner was travelling. As a result, the petitioner and the pillion rider fell down and sustained injuries all over their bodies. The petitioner was shifted to Government Hospital, Vizianagaram, from there he was shifted to Kala Hospital, Visakhapatnam, for better treatment for the fractures and other injuries.

[ii] The petitioner suffered fracture on right femur, tibia and fibula and left tibia and fibula and conducted operations to the said fractures and undergone operation, applied plaster of paris and plates.

[iii] A case in Crime No. 22 of 2019 under Sections 337, 338 IPC was registered against the first respondent-driver of the offending vehicle by the Station House Officer, Gurla Police Station and subsequently charge sheet was laid against the driver.

[iv] The petitioner was hale and healthy, aged about '32' years and attending machine contract works and thereby earning Rs.300/- per day; incurred huge expenditure for treatment, suffering disability. Hence, entitled for the compensation claimed.

**Case of the 1<sup>st</sup> respondent :-**

5. [i] The petition allegations are not correct. Due to dazzling lights, the accident occurred, despite the 1<sup>st</sup> respondent was carefully driving the vehicle.

[ii] Insurance premium, in respect of the offending vehicle, was paid to the 2<sup>nd</sup> respondent.

6. Counter of the 1<sup>st</sup> respondent is adopted for the 2<sup>nd</sup> respondent.

**Case of the 3<sup>rd</sup> respondent-Insurance Company:-**

7. [i] The claimant/petitioner shall prove the pleaded accident, negligence of the driver of the offending vehicle, injuries sustained by the climate, nature and effect thereon, medical expenditure incurred, effect of injury, age, occupation and income of the petitioner as well as justification for the quantum of compensation for the claimant.

[ii] Negligence of the motor cyclist viz., the petitioner is the cause for the accident.

[iii] In any event respondent No.3 is not liable to pay any compensation.

**Evidence:-**

**On behalf of the petitioner/claimant:-**

8. [i] Claimant was examined as PW.1 and Dr. P. V. Ramana Murthy and Dr. K. V. Murali Mohana Rao were examined on behalf of the petitioner to show the treatment undergone.

[ii] The petitioner/claimant relied on Exs.A1 to Ex.A7 and Exs.X1 and X2. Ex.A1- FIR, Ex.A2 - wound certificate, Ex.A3-M.V.I. report, Ex.A4- charge

sheet, Ex.A5 - bunch of medical bills worth Rs.99,967/-, Ex.A6 - X-ray films (2Nos.), Ex.A7 - Disability Certificate issued by the District Medical Board, Vizianagaram. Ex.X1and Ex.X2- Case sheets maintained at Kala Hospital, Visakhapatnam.

[iii] No oral evidence is adduced on behalf of the respondents. Ex.B1 – Insurance Policy was got marked.

**Findings of the learned MACT:-**

**On negligence:-**

9. [i] Evidence of the petitioner as PW1 and the crime record covered by Ex.A1- FIR, Ex.A3 –M.V.I. report, Ex.A4- charge sheet, are sufficient to believe the negligence of the driver of the offending vehicle.

**On quantum:-**

[ii] On quantum, a bunch of medical bills, under Ex.P5 are standing for Rs.99,967/- and Ex.X2 reveals that the petitioner was admitted in the Hospital on 29.03.2009, undergone operation on the same day and was discharged on 28.04.2009. Ex.X1-case sheet also shows that again the petitioner was admitted on 04.06.2009, undergone operation for removal of nails and was discharged on 05.07.2009.

[iii] Evidence of Doctors would show about the treatment undergone, shifting of the petitioner to the Government Hospital, from there to KALA

Hospital. Medical evidence is indicating fracture of right femur, tibia and also sustained fracture of left tibia and fibula and he underwent operations for fixation of implants and for their removal.

[iv] Therefore, the petitioner/claimant is entitled to compensation under various heads, as follows :

Sl.No.		Rupees
1.	Compensation for transport expenses	1000-00
2.	Compensation towards medicines, extra nourishment and attendant charges	1,09,000-00
3.	Compensation towards shock, pain, suffering and for receipt of injuries	60,000-00
4.	Compensation for loss of earnings (for three months)	7,500-00
5.	Compensation towards physical disability and loss of future earnings.	45,000-00
	Total	2,22,500-00
		Rounded to <b>Rs.2,23,000/-</b>

**Arguments in the appeal:**

**For the claimant/petitioner/appellant :-**

10. [i] Compensation awarded is very low.

[ii] Disability is not properly assessed.

[iii] Loss of income on the ground of permanent disability is not properly calculated.

[iv] The petitioner is entitled for more compensation than what claimed and there is no bar to award more than claimed, if the claimant is entitled.

**For the respondents:-**

11. [i] The compensation awarded under the impugned decree is excessive.

[ii] There is no basis for taking the income of the petitioner and the learned MACT erred in taking the income at ₹100 per day.

[iii] The compensation awarded requires reduction.

12. Perused the record. Thoughtful consideration is given to the arguments advanced by both sides.

**Scope of appeal: -**

13. This appeal has been filed by the claimant. Therefore, the entitlement of the claimant to compensation and the liability of the respondent to pay the same are out of dispute. The scope of the present appeal can be confined to the adequacy of the compensation awarded.

14. The points that arose for determination in this appeal are –

- 1) Whether the compensation of Rs.2,23,000/- awarded under the impugned judgment and decree dated 31.12.2011 passed by the learned MACT is just and adequate? Or require any modification? If so, to which extent?
- 2) What is the result of the appeal?

**Point No.1:-**

**Quantum of compensation:**

**Precedential Guidance:**

15. A reference to parameters, for quantifying the compensation under various heads, addressed by the Hon'ble Apex Court is found necessary, to have standard base in the process of quantifying the compensation, to which the claimant is entitled.

(i) With regard to awarding just and reasonable quantum of compensation, the Hon'ble Supreme Court in ***Baby Sakshi Greola vs. Manzoor Ahmad Simon and Anr.***<sup>1</sup>, arising out of SLP(c).No.10996 of 2018 on 11.12.2024, considered the scope and powers of the Tribunal in awarding just and compensation within the meaning of Act, after marshaling entire case law, more particularly with reference to the earlier observations of the Hon'ble

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<sup>1</sup>2025 AIAR (Civil) 1

Supreme Court made in ***Kajal V. Jagadish Chand and Ors.***<sup>2</sup>, referred to various heads under which, compensation can be awarded, in injuries cases vide paragraph No.52, the heads are as follows:-

S. No.	Head	Amount (In ₹)
1.	Medicines and Medical Treatment	xxxxx
2.	Loss of Earning Capacity due to Disability	xxxxx
3.	Pain and Suffering	xxxxx
4.	Future Treatment	xxxxx
5.	Attendant Charges	xxxxx
6.	Loss of Amenities of Life	xxxxx
7.	Loss of Future Prospect	xxxxx
8.	Special Education Expenditure	xxxxx
9.	Conveyance and Special Diet	xxxxx
10.	Loss of Marriage Prospects	xxxxxx
	Total	Rs. ... xxxxxx

(ii). Hon'ble Apex Court in ***Yadava Kumar Vs. Divisional Manager, National Insurance Company Limited and Anr.***,<sup>3</sup> vide para No.10, by referring to ***Sunil Kumar Vs. Ram Singh Gaud***<sup>4</sup>, as to application of multiplier method in case of injuries while calculating loss of future earnings, in para 16 referring to ***Hardeo Kaur Vs. Rajasthan State Transport Corporation***<sup>5</sup>, as to fixing of quantum of compensation with liberal approach, valuing the life and limb of individual in generous scale, in para 17 observed that :-

*“The High Court and the Tribunal must realize that there is a distinction between compensation and damage. The expression compensation may include a claim for damage but compensation is more comprehensive. Normally damages are given for an injury which is suffered, whereas*

<sup>2</sup>2020 (04) SCC 413

<sup>3</sup>2010(10)SCC 341

<sup>4</sup>2007 (14) SCC 61

<sup>5</sup>1992(2) SCC 567

*compensation stands on a slightly higher footing. It is given for the atonement of injury caused and the intention behind grant of compensation is to put back the injured party as far as possible in the same position, as if the injury has not taken place, by way of grant of pecuniary relief. Thus, in the matter of computation of compensation, the approach will be slightly more broad based than what is done in the matter of assessment of damages. At the same time it is true that there cannot be any rigid or mathematical precision in the matter of determination of compensation.”*

(iii). In ***Rajkumar Vs. Ajay Kumar and Another***<sup>6</sup>, the Hon’ble Apex Court summarized principles to be followed in the process of quantifying the compensation after referring to socio economic and practical aspects from which, the claimants come and the practical difficulties, the parties may face in the process of getting disability assessed and getting all certificates from either the Doctors, who treated, or from the medical boards etc. principles summarized *vide* para No.19 are as follows:

**“19.** *We may now summarise 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*

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<sup>6</sup> 2011 (1) SCC 343

*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.”*

(iv) In ***Sidram vs. United India Insurance Company Ltd. and Anr.***<sup>7</sup>

vide para No.40, the Hon’ble Apex Court referred to the general principles relating to compensation in injury cases and assessment of future loss of earning due to permanent disability by referring to ***Rajkumar’s*** case, and also various heads under which compensation can be awarded to a victim of a motor vehicle accident.

(v) In ***Sidram’s*** case, reference is made to a case in ***R.D. Hattangadi V. Pest Control (India) (P) Ltd.***<sup>8</sup>. From the observations made therein, it can be understood that *while fixing amount of compensation in cases of accident, it involves some guess work, some hypothetical consideration, some amount of sympathy linked with the nature of the disability caused. But, all these elements have to be viewed with objective standards. In assessing damages, the Court must exclude all considerations of matter which rest in awarding speculation or fancy, though conjecture to some extent is inevitable.*

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<sup>7</sup> 2023 (3) SCC 439

<sup>8</sup> 1995 (1) SCC 551

**Analysis, reasoning and findings:-**

16. [i] As per Ex.A2-wound Certificate, the injuries suffered by the petitioner are as follows:-

- 1) Fracture of right femur, tibia, fibula
- 2) Fracture left tibia, fibula; both are grievous injuries.

[ii] A bunch of medical bills covered by Ex.A5, stands at Rs.99,697/-.

[iii] Ex.A7-Disability Certificate is indicating the disability of the petitioner at 45%. As per case sheet, maintained at Kala Hospital, inpatient treatment was given to the petitioner and the surgeries undergone are evident.

[iv] The treatment was given under Rajiv Aarogyasri Scheme. However, incurring of medical expenditure need not be doubted. Second time admission and surgery for removal of implants and nails is also evidenced by the record. The admission date is on 04.06.2009 and discharge is on 05.07.2009.

[v] The evidence of Doctors - PW.2 and PW.3, require careful consideration in the context of rival contentions.

17. [i] The evidence of PW2, Dr. P.V. Ramanamoorthy would show that he is running Kala Hospital on 27.03.2009. The petitioner was admitted in their hospital with the injuries mentioned above, under supervision of Orthopedician, Dr. P. Ashok Kumar, X-rays were taken and patient's operation was conducted

on 31.03.2009 and on 01.04.2009 operations were carried out. The petitioner was discharged on 08.04.2009 and again there was admission on 04.06.2009. Exhibit A2 is the wound certificate issued by his hospital. Exhibit A5 is the bunch of medical bills pertaining to the petitioner and Medicines are purchased as per prescription of PW2. Exs.X1 and X2 are the case sheets.

[ii] During the cross-examination of PW.2, except eliciting that the treatment was given under Aarogysasri Scheme, nothing important is elicited. The petitioner is very clear that he has paid the amounts covered by the medical bills.

[iii] The evidence of Dr. K. V. Murali Mohan- PW3 is that he is a Civil Assistant Surgeon at District Head Quarters Hospital, Vizianagaram.

[iv] The petitioner attended at a District Medical Board, Vizianagaram, for obtaining orthopedically Handicapped Certificate. There was malunion of fractures. There will be difficulty to the petitioner to do hard work and he cannot sit or stand for long time and he cannot sit in cross-legged position and cannot run. The District Medical Board assessed the disability at 45%. Ex.A8 is the Disability Certificate.

[v] PW3 denied the suggestion that the petitioner is not suffering any disability from the evidence.

18. From the evidence, following facts are clear.

- [i] The petitioner suffered accident and fractures.
- [ii] Undergone treatment and suffered disability.
- [iii] Reason for the accident is negligence of the first respondent.

19. [i] There is no evidence from the respondent's side. The income of the petitioner taken at ₹100 per day need not be faulted. However, in view of the age of the petitioner being '32', adding of 30% towards future prospects is permissible and the same is not done by the learned MACT and the calculation of compensation for physical disability at Rs.45,000/- in lump sum cannot be appreciated and awarding of Rs.45,000/- towards 45% disability is not traceable to any rationality.

[ii] Income at Rs.3,000/- per month with an addition of 30% will come to Rs.3,900/- per month. 45% of the same will come to Rs.1,755/- per month and the same will come to Rs.21,060/- per annum. For the age group of '32', the multiplier applicable as per **Sarla Verma's** case is '16'. When the same is applied, the entitlement of the claimant for compensation under the head of permanent disability comes to  $[21,060 \times 16=]$  Rs.3,36,960/-. Accordingly the claimant is entitled for the same.

[iii] Further, the petitioner is entitled under the heads of medical expenditure, pain and suffering, attendant charges and transportation charges etc.,

20. In the light of the precedential guidance and in view of the reasons and evidence referred above, the entitlement of the petitioner/claimant for reasonable compensation in comparison to the compensation awarded by the learned MACT is found as follows:

Sl. No.	Head	Granted by the learned MACT	Fixed by this Appellate Court
1.	Pain and suffering	Rs.60,000/-	<b>Rs.50,000 /-</b>
2.	Transportation	Rs.1000 /-	<b>Rs.25,000 /-</b>
3.	a) Medical expenditure/treatment	Rs.1,09,000/-	<b>Rs.1,00,000 /-</b>
	b) Attendant charges and extra nourishment		<b>Rs.25,000/-</b>
4.	Loss of earnings during the period of treatment [3months]	Rs.7500/-	<b>Rs.9000 /-</b>
5.	Loss of income due to permanent disability	Rs. 45,000/-	<b>Rs. 3,36,960/-</b>
	<b>Total:</b>	<b>Rs.2,22,500/-</b> [rounded to <b>Rs.2,23,000/-</b> ]	<b>Rs.5,45,960/-</b>

**Granting of more compensation than what claimed, if the claimants are otherwise entitled:-**

21. The legal position with regard to awarding more compensation than what claimed has been considered and settled by the Hon'ble Supreme Court holding that there is no bar for awarding more compensation than what is claimed. For the said preposition of law, this Court finds it proper to refer the following observations of the Hon'ble Supreme Court made in:

(1) **Nagappa Vs. Gurudayal Singh and Others**<sup>9</sup>, at para 21 of the judgment.

(2) **Kajal Vs. Jagadish Chand and Ors.**<sup>10</sup> at para 33 of the judgment.

(3) **Ramla and Others Vs. National Insurance Company Limited and Others**<sup>11</sup> at para 5 of the judgment.

22. For the reasons aforesaid and in view of the discussion made above, the point framed is answered in favour of the claimant, concluding that the claimant is entitled for compensation of **Rs.5,45,960/-** with interest @7.5% p.a. and the judgment and decree dated 31.12.2011 passed by the learned MACT in M.V.O.P.No.833 of 2009 require modification accordingly.

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<sup>9</sup> (2003) 2 SCC 274

<sup>10</sup> 2020 (04) SCC 413

<sup>11</sup> (2019) 2 SCC 192

**Point No.2:**

23. In the result, **the appeal is allowed**, as follows:

- a. Compensation awarded by the learned MACT in M.V.O.P.No.833 of 2009 at **Rs.2,23,000/-** with interest at the rate of 7.5% per annum is modified and enhanced to **Rs.5,45,960/-** with interest at the rate of 7.5% per annum from the date of petition till the date of realization.
- b. Respondent Nos.2 and 3 are jointly and severally liable. However, Respondent No.3/ Insurance Company is liable in view of the Insurance Policy.
- c. Time for payment/deposit of the balance amount is two (2) months.
- d. (i) If the petitioner/claimant furnishes the bank account number within (15) days from today, Respondents No.3/ Insurance Company shall deposit the amount directly into the bank account of the petitioner/ claimant and file the necessary proof before the learned MACT.  
  
(ii) If the petitioner/claimant fails to comply with (d)(i) above, Respondent No.3/Insurance Company shall deposit the amount before the learned MACT and the petitioner/claimant is entitled to withdraw the amount at once on deposit.

- (e) There shall be no order as to costs in the appeal.
- (f) As a sequel, miscellaneous petitions, if any, pending in the appeal shall stand closed.

**A. HARI HARANADHA SARMA, J**

Date: 01.07.2026  
Pnr

Whether the order is:

Speaking	√	Non-speaking	-
Reportable	-	Non-reportable	√

**HON'BLE SRI JUSTICE A. HARI HARANADHA SARMA**

**M.A.C.M.A.No.569 of 2014**

**Dated 01.07.2026**

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