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APHC010008872012

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3520]
(Special Original Jurisdiction)

WEDNESDAY, THE 1st DAY OF JULY 2026

PRESENT

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 1406/2012

Between:

1. S.VENKATA REDDY, S/O.LATE PAKKI REDDY R/O.H.NO.45/24-K-55-1, AMEENA ABBAS NAGAR, VENKAT RAMANA COLONY,

...APPELLANT

AND

1. ANDNADA RAO 2 ORS, S/O.LATE KRISHNA RAO, MAJOR OWNER OF AUTO BEARING NO.AP 28 W 1176 R/O.H.NO.76/116/322/33, GANESH NAGAR, KURNOOL.
2. MD NAWAZ KHAN, S/O.NOT KNOWN, MAJOR POLICY HOLDER OF AUTO BEARING NO.AP 28 W 1176 R/O.H.NO.4-2-5, VIKARABAD, RANGA REDDY DISTRICT.
3. M/S BAJAJ ALLIANZ GENERAL INSURANCE COMPANY LIMITED, REP BY ITS MANAGER O/O.G.E.PLAZA, AIRPORT ROAD, YERWADA, PUNE.

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Court

Counsel for the Appellant:

1.P V V SATYANARAYANA

Counsel for the Respondent(S):

1.T V SRI DEVI

2..

The Court made the following:

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

M.A.C.M.A.No.1406 of 2012

JUDGMENT:

Introductory:

The Claimant in M.V.O.P.No.437 of 2007 on the file of the Motor Accidents Claims Tribunal-cum-Family Court-cum-IV Additional District Judge, Kurnool *[for short 'the learned MACT"]*, feeling aggrieved by the dismissal of the claim made against the respondents, for the injuries sustained by him, in the motor vehicle accident, filed the present appeal, questioning the order and decree dated 15.02.2012 passed therein.

2. 1st respondent is the owner, 2nd respondent is the Policyholder, and the 3rd respondent is the Insurance Company, with which the auto bearing No.AP 28 W 1176 *[hereinafter referred as 'the offending vehicle']* was insured.

3. For the sake of convenience, parties will be herein after referred as the claimant/petitioner and the respondents as and how they are arrayed before the learned MACT.

Case of the claimant/petitioner:-

4. [i] On the fateful day i.e., on 21.11.2006 when the petitioner was travelling on his motorcycle bearing No.AP 21 E 9354 on the way to home near SP bungalow, Kurnool, one auto bearing No.AP 28 W 1176, [hereinafter referred as offending vehicle], came in an opposite direction, in a rash and

negligent manner, dashed the motorcycle, thereby the accident occurred. The petitioner sustained multiple injuries including fracture to his right wrist and grievous injury to his knee joint. He was taken to Govt. Hospital, Kurnool.

[ii] Later he was shifted to Viswabharati Super Specialty Hospital, Kurnool and from there to Apollo Hospital, Hyderabad for better treatment and incurred expenditure of Rs.30,000/- towards medical and attendant charges.

[iii] The petitioner was aged about '39' years, hale and healthy earning Rs.3,000/- per month. He became disabled. Hence, entitled for compensation.

5. 1st respondent is the registered owner and the 2nd respondent is the policy holder, remained ex-parte.

6. The 3rd respondent-Insurance company filed its counter.

Case of the 3rd respondent-Insurance Company:-

7. [i] There was no negligence on the part of the driver of the auto.

[ii] The petitioner shall prove the pleaded accident, negligence of the driver of the auto, injuries suffered, expenditure incurred for the treatment, age, occupation and income, loss of income as well as valid and effective driving license to the petitioner for driving the motorcycle.

[iii] There was no fitness for the offending vehicle, whereby there is violation of the Police conditions. Hence, the Insurance Company is not liable.

Evidence:-

8. [i] Claimant is examined as PW1, one Dr.B.V.Subba Reddy Doctor, who treated the claimant/petitioner is examined as PW2. Claimant relied on certified copies of Ex.A1-FIR, Ex.A2- Wood Certificate, Ex.A3- Charge Sheet, Ex.A4- Lokadalath Docket orders. Ex.A5- Panchayath Bunch of medical bills and prescriptions. Ex.A6- Discharge Summary issued Viswabharathi Hospital. Ex.A7- Bills issued by Viswabharathi Hospital, Kurnool. Ex.A8 - Test Reports. Ex.A9- Treatment Certificate with Bills. Ex.A10 - Neuro clinic Prescription. Ex.A11- Medical check-up prescription by Apollo Hospital, Hyderabad. Ex.A12- Tax Registration Certificate, Ex.A13- SSC Certificate, Ex.A14- Driving License, Ex.A15- X-rays taken at Viswabharati Hospital, Ex.A16- I.T. Returns, Ex.A17-Thasildar Certificate, Ex.X1 is the Case sheet of the Viswabharati Hospital.

[ii] On behalf of the respondent- Insurance Company, one S.Raghu, legal executive was examined as RW 1, and an employee from RTO Office, Kurnool was examined as RW 2. The respondent-Insurance Company relied on Ex.B1- Insurance Policy. Ex.B2- letter addressed to the Superintendent of Police by the Insurance Company requesting for investigation. Ex.B3- similar letter addressed to the Circle Inspector of

Police. Ex.B4 -driving license extract of one Goodenna. Ex.B5 – R.C. copy of auto bearing number AP 28 W 1176. Ex.P6 -permit copy for the same. Ex.P7 - notice copy addressed to the Respondent No.1 from the Insurance Company as to the claim made to Ex.B8 returned postal cover. Ex.B9 authorization letter from RTA, deputing to submit certificates before the Court. [When the letter addressed to the Court from the RTO, RW2 together to give evidence how the said document is marked on behalf of the insurance company is not clear.] Ex.B10 - driving license extract, Ex.B11 – R.C. of the offending vehicle.

Findings of the learned MACT:-

9. [i] The petitioner is injured and eyewitness. Certified copies of Exs.A1- FIR, Ex.A3 – Charge Sheet supports his evidence as to the accident. There is no evidence other than the evidence of PW.1 to show the occurrence of the accident and there was inordinate delay in lodging the FIR from 21.11.2006 to 01.04.2007. Delay is not properly explained. The reason that due to hospitalization, report could not be given in time is not convincing. When there was hospitalization, the medico legal case should have been registered.

[ii] The delay appears to be for partly implicating the auto, case against the driver of the offending vehicle, which was ended in acquittal due to compounding in terms of Section 320(2) of CrPC even before the charge sheet is filed. Hence, respondents No.1, 2 and the Insurance Company

cannot be made liable. As none of the respondents can be made liable, there is no need to discuss the entitlement of the claimant and the quantification of the compensation.

Arguments in the appeal:

For the petitioner/appellant :-

10. [i] Delay in lodging of FIR cannot be a ground to reject the claim. But learned MACT has given more importance to the same. The learned MACT failed to appreciate the evidence improper in legal and logical perception particularly when charge sheet is filed and no steps are taken by the Insurance Company to examine any witness including the other respondents.

For the Insurance Company/3rd respondent:-

11. Planting of offending vehicle is the defence of the Insurance Company. Therefore, the dismissal of the claim is properly done.

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

13. The points that arise for determination in this appeal are –

1) Whether the pleaded accident dated 21.11.2006 has occurred due to the rash and negligent driving of the vehicle bearing No.AP

28 W 1176 *[offending vehicle],* by its driver? and whether the petitioner sustained injuries due to the said accident?

2) Whether the petitioner/appellant is entitled to compensation? If so, to what quantum and against which of the respondents?

3) Whether the dismissal of the claim by the Learned MACT under the impugned order and decree dated 15.02.2012 is proper ?

4) What is the result of the appeal?

Point No.1:-

14. It is clear from the law and settled practice that any claim made for compensation in terms of Motor Vehicles Act, the record maintained by the Police in discharge of their official findings can be relied on. In the context of objections, it is also relevant to note that the appreciation of evidence in answering the question of fact as to negligence in a motor accident claim and other relevant aspects learned MACT can rely on the official records adopting the theory of probability with a holistic approach.

Statutory and Precedential guidance is as follows:-

15 (i). As per Section 176 of the Motor Vehicles Act, the State Governments are entitled to make rules for the purpose of carrying effect to the provisions of the Motor Vehicles Act.

(ii). In relation to claims before the learned MACT, Rule 455 to Rule 476 of the A.P. Motor Vehicles Rules, 1989, vide Chapter No.11 provides

comprehensive guidance. As per Rule 476 of the A.P. Motor Vehicles Rules, 1989, the claims Tribunal shall proceed to award the claim basing on the registration certificate of the vehicle, Insurance Policy, copy of FIR and Post-mortem certificate etc.

16. As per Rule 476 of the A.P. Motor Vehicles Rules, 1989, learned Tribunal can relied on the crime record. The official acts done are presumed to be proper until a contrary is proved particularly when some statutory recognition is given to such official records.

17. It is relevant to note that in view of the summary nature and mode of enquiry contemplated under Motor Vehicles Act and social welfare nature of legislation the Tribunal shall have holistic view with reference to facts and circumstances of each case. It is sufficient if there is probability. The principle of standard of proof, beyond reasonable doubt cannot be applied while considering a claim seeking compensation for the death or the injury on account of road accident. The touch stone of the case, the claimants shall have to establish is preponderance of probability only. The legal position to this extent is settled and consistent.

18. The Hon'ble Apex Court in ***Bimla Devi and others Vs. Himachal Road Transport Corporation***[1]***,*** in para 15 observed as follows:

> **"***15. In a situation of this nature, the Tribunal has rightly taken a holistic view of the matter. It was necessary to be borne in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants*

[1] *2009 (13) SCC 530*

were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied. For the said purpose, the High Court should have taken into consideration the respective stories set forth by both the parties.."

Reasoning and Findings :-

Accident - negligence:-

19. [i] In the light of the statutory presidential guidance, the evidence on record require examination and appreciation. The claimant deposed as PW1. He is an injured and eyewitness to the accident. Accident is not in dispute even according to the letter correspondence of the contesting respondent viz., Insurance Company to the Superintendent of Police. Claimant as PW1 categorically deposed about the occurrence of the accident, hospitalisation, continuation of treatment at various hospitals. The date of accident is 21.11.2006. Ex.A8- Test reports are dated 23.11.2006 to 26.11.2006. During cross-examination of PW1, concentration was made on the driving license of the petitioner.

[ii] Negligence is attributed to the petitioner. Negligence of the driver of the auto is disowned. The petitioner, as PW1 stated that since he was hospitalised because of the injuries, did not give report to the Police. He has denied the suggestion that he managed the police to foist a false case. For the question that he has colluded with the owner of the vehicle, he said that he do not know who is the owner, as on the date of cross examination

also. Here, it is pertinent to note that owner of the offending vehicle and the policy holder remained ex parte. The Policy runs with the vehicle. The core accusation, whether the vehicle is involved in the accident or not, much stress is there from the Insurance Company that the vehicle bearing No.AP 28 W 1176 referred as offending vehicle, did not involve in the accident.

[iii] In Ex.A1-F.I.R., the vehicle number is mentioned. No doubt the F.I.R. is with a delay. The reason for the delay is mentioned as delay occurred in obtaining the original wound Certificate. Further, there is reference to both the original wound certificate and MLC intimation also in Column No.14. Proper person to deny the involvement is vehicle owner of the offending vehicle, but he remained *ex parte.* No steps are taken by the Insurance Company to examine the owner. Whether any investigation has got done by the Insurance Company and what happened to the investigator's report and why the said investigator is not examined for the Insurance Company is not known.

[iv] Ex.A3 is the charge sheet, in which the crime vehicle details are mentioned as AP 28 W 1176. Driver is known as Pinjari Badenna. Driving licence particulars of the said Badenna also obtained by the Insurance Company and got marked, which suggests that they have the details of the driver including the address etc. Notices were got dispatched to the owner also by the Insurance Company. Why no steps are taken to summon either the driver or the owner of the offending vehicle is not whispered. Ex.A4 is the docket proceedings that the matter is settled before the Lok Adalat and the

defacto complainant and the accused have compounded the offence in terms of Section 320(8) of Cr.P.C. The involvement of the driver -Badenna is beyond doubt in view of the Lokadalat proceedings. The alleged violation relating to the absence of a valid and effective driving licence, or any other breach of policy conditions, is not made out.

[v] Evidence of RW.1 and RW.2 would at the best show that the Insurance Company has reported the matter to the Superintendent of Police and Inspector of Police, about the planting of the offending vehicle without its involvement. No further steps are taken. There is no denial from the respondents No.1 and 2 as to the involvement of the offending vehicle. The defence of the Insurance Company is that there is collusion between the petitioner and the owner of the offending vehicle.

[vi] Whether mere allegation of collusion is sufficient to establish such a serious defence, is an important question. The written statement of the 2nd respondent would drive to understand that all defences available are taken including the contradictions, absence of driving licence to the driver of the offending vehicle, driving licence for the victim/petitioner and attribution of collusion to the petitioner with the Police and the owner of the vehicle, self-negligence of the petitioner in lodging the FIR. As no steps are taken to summon respondents No.1 and 2, collusion cannot be believed.

[vii] As per Ex.A2 wound certificate would show that the injuries are caused due to road traffic accident caused by an auto. In view of the evidence of PW1, the injured eye witness and in view of the official

documents- Exs.A1 to Ex.A4, involvement of the offending vehicle is acceptable. Negligence of the driver of the offending vehicle is also acceptable in the light of the statutory and precedential guidance mentioned above.

[viii] With regard to the delay, this Court finds it proper to note that treatment to the victim/petitioner is more important than giving a complaint to the Police. Mere delay in giving report to Police is no ground to reject the claim. At this juncture, this Court finds it proper to refer to the observations of the Hon'ble Apex Court made in a case between **Ravi** and **Badrinarayan and Others**[2] relevant para numbers 17 to 19 reads as follows :-

> "**17.** It is well settled that delay in lodging the FIR cannot be a ground to doubt the claimant's case. Knowing the Indian conditions as they are, we cannot expect a common man to first rush to the police station immediately after an accident. Human nature and family responsibilities occupy the mind of kith and kin to such an extent that they give more importance to get the victim treated rather than to rush to the police station. Under such circumstances, they are not expected to act mechanically with promptitude in lodging the FIR with the police. Delay in lodging the FIR thus, cannot be the ground to deny justice to the victim.
>
> **18.** In cases of delay, the courts are required to examine the evidence with a closer scrutiny and in doing so the contents of the FIR should also be scrutinized more carefully. If the court finds that there is no indication of fabrication or it has not been concocted or engineered to implicate innocent persons then, even if there is a delay in lodging the FIR, the claim case cannot be dismissed merely on that ground. The purpose of lodging the FIR in such type of cases is primarily to intimate the police to initiate investigation of criminal offences.

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[2] *(2011) 4 SCC 693 : (2011) 2 SCC (Civ) 426*

> **19.** Lodging of FIR certainly proves the factum of accident so that the victim is able to lodge a case for compensation but delay in doing so cannot be the main ground for rejecting the claim petition. In other words, although lodging of FIR is vital in deciding motor accident claim cases, delay in lodging the same should not be treated as fatal for such proceedings, if claimant has been able to demonstrate satisfactory and cogent reasons for it. There could be a variety of reasons in genuine cases for delayed lodgment of FIR. Unless kith and kin of the victim are able to regain a certain level of tranquility of mind and are composed to lodge it, even if, there is delay, the same deserves to be condoned. In such circumstances, the authenticity of the FIR assumes much more significance than delay in lodging thereof supported by cogent reasons."

[ix] Further, the Hon'ble High Court of Madras in a case between ***Tamil Nadu State Transport Corporation, rep by General Manager v. P.Shanthi***[3], while answering similar contention as to the delay in lodging FIR and standard of proof required in motor accidents claims cases, referring several judgments, found that –

> "**17.** It is the well settled law that proceedings before the Claims Tribunal are summary in nature and it is suffice to consider, whether there is any preponderance of probability, as to the manner of accident, as detailed in the claim petition. Strict proof of evidence is not required.
>
> 1**8.** At this juncture, this Court also deems it fit to consider a decision in **Jacob Mathew v. State of Punjab,** (2005) 6 SCC 1 : 2005 SCC (Cri) 1369 : (2005) 4 CTC 540 (SC), wherein, the Hon'ble Supreme Court has explained the distinction between a tort and crime, where negligence is the fact, required to be proved and at Paras 13 to 17, held as follows:
>
> "*13.* The moral culpability of recklessness is not located in a desire to cause harm. It resides in the proximity of the reckless state of mind to the state of mind present when there is an intention to cause harm. There is, in other words, a disregard for the possible consequences. The consequences entailed in the risk may not be wanted, and indeed the actor may hope that

[3] *2017 SCC OnLine Mad 38431*

they do not occur, but this hope nevertheless fails to inhibit the taking of the risk. Certain types of violation, called optimizing violations, may be motivated by thrill-seeking. These are clearly reckless.

14. In order to hold the existence of Criminal rashness or Criminal negligence it shall have to be found out that the rashness was of such a degree as to amount to taking a hazard knowing that the hazard was of such a degree that injury was most likely imminent. The element of criminality is introduced by the accused having run the risk of doing such an act with recklessness and indifference to the consequences. Lord Atkin in his speech in *Andrews* v. *Director of Public Prosecutions*, [1937] A.C. 576, stated,—

> "Simple lack of care such as will constitute Civil liability is not enough; for purposes of the criminal law there are degrees of negligence; and a very high degree of negligence is required to be proved before the felony is established."

Thus, a clear distinction exists between "simple lack of care" incurring Civil liability and "very high degree of negligence" which is required in Criminal cases. Lord Porter said in his speech in the same case—

> "A higher degree of negligence has always been demanded in order to establish a criminal offence than is sufficient to create civil liability. (*Charlesworth & Percy*, ibid, para 1.13)

15. The fore-quoted statement of law in Andrews has been noted with approval by this Court in *Syad Akbar* v. *State of Karnataka*, (1980) 1 SCC 30 : 1980 SCC (Cri) 59. The Supreme Court has dealt with and pointed out with reasons the distinction between negligence in Civil law and in criminal law. Their Lordships have opined that there is a marked difference as to the effect of evidence, *viz.* the proof, in Civil and Criminal proceedings. In Civil proceedings, a mere preponderance of probability is sufficient, and the defendant is not necessarily entitled to the benefit of every reasonable doubt; but in Criminal proceedings, the persuasion of guilt must amount to such a moral certainty as convinces the mind of the Court, as a reasonable man, beyond all reasonable doubt. Where negligence is an essential ingredient of the offence, the negligence to be established by the Prosecution must be culpable or gross and not the negligence merely based upon an error of judgment.

16. Law laid down by Straight, J. in the case *Reg* v. *Idu Beg*, 1881 SCC OnLine All 103 : (1881) 3 All. 776, has been held good in cases and noticed in *Bhalchandra Waman Pathe* v. *State of Maharashtra*, 1967 SCC OnLine SC 26

> : 1968 Mah LJ 423, a Three-Judge Bench decision of this Court. It has been held that while negligence is an omission to do something which a reasonable man, guided upon those considerations which ordinarily regulate the conduct of human affairs, would do, or doing something which a prudent and reasonable man would not do; Criminal negligence is the gross and culpable neglect or failure to exercise that reasonable and proper care and precaution to guard against injury either to the public generally or to an individual in particular, which having regard to all the circumstances out of which the charge has arisen, it was the imperative duty of the Accused person to have adopted.
>
> *17.* In our opinion, the factor of grossness or degree does assume significance while drawing distinction in negligence actionable in tort and negligence punishable as a crime. To be latter, the negligence has to be gross or of a very high degree."

20. In view of the settled legal position and in view of the continuous treatment of the petitioner in various hospitals, pleaded and shown covered by the medical evidence, the objection of delay in lodging FIR pressed into service by the Insurance Company found fit to be ignored. Since with regard to the accident there is no oath against oath, this Court finds it appropriate to accept the evidence of PW.1 in the light of the crime record covered by Ex.A1-FIR, Ex.A2-wound certificate, Ex.A3- charge sheet, and Ex.A4-Lok Adalath settlement Docket evidencing the compounding of criminal case under Section 320(8) of Cr.P.C, and concludes that the accident occurred due to the negligence of the driver of the vehicle bearing No. AP 28 W 1176 / offending vehicle, and the involvement of the said vehicle in the accident stands established.

21. For the reasons aforesaid, point No.1 is answered in favour of the petitioner concluding that the negligence of the driver of the offending vehicle is the cause for the accident and that the petitioner/claimant has suffered injuries in the said accident. Hence, entitled for the compensation.

Point No.2:-

22. This Court finds it appropriate to observe that some Motor Accidents Claims Tribunals are avoiding recording the findings on the issue touching the quantification of compensation despite sufficient evidence is available, on the premise that the Tribunal has answered the issue touching the entitlement against the claimants for compensation, basing on the findings on negligence or on the involvement of the vehicle. The findings on negligence or the involvement of the vehicle stand on one footing. There is possibility, that the appellate court, being the last Court of fact, may come to the conclusion that the appreciation of evidence available by the first Court/Tribunal is erroneous or important evidence is ignored, and consequently arrive at a different finding with regard to negligence or the involvement of the vehicle on the strength of the evidence available on record. Then, with regard to the quantification of compensation, there will be no findings of the Trial Court or Tribunal available for consideration by the appellate Court. Remanding the matter after a considerable lapse of time merely for the purpose of quantification of compensation would result traumatization for the claimants, and unnecessary financial burden on the

tort-feasors, who may ultimately be liable to pay the compensation, at least on the interest component. Therefore, it would be a good practice for the Tribunals to quantify the compensation in every case, where the necessary evidence is available, even if the Tribunal ultimately concludes that the respondents are not liable to pay compensation for valid reasons. But avoiding the exercise of quantification altogether, despite the availability of evidence, cannot be appreciated.

23. The learned MACT ought to have addressed the issue relating to the quantum of compensation as well. Having framed all the issues for determination, the learned MACT ought to have rendered findings on each of them. Since the evidence is available on record, this Court, being the first appellate Court and the final Court on facts, can appreciate the evidence and quantify the compensation with remittance to the Tribunal to avoid delays in the interest of justice.

Precedential Guidance:

24. 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.[4]**,** 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 Supreme Court made in ***Kajal V. Jagadish Chand and Ors***.[5], 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.,***[6] vide para No.10, by referring to ***Sunil Kumar Vs. Ram Singh Gaud***[7]***,***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***[8], as to fixing of quantum of compensation with liberal approach,

[4] 2025 AIAR (Civil) 1
[5] *2020 (04) SCC 413*
[6] *2010(10)SCC 341*
[7] 2007 (14) SCC 61
[8] 1992(2) SCC 567

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 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***[9], 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).*

[9] 2011 (1) SCC 343

> *(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.*

(iv) In ***Sidram vs. United India Insurance Company Ltd. and Anr***.[10] 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.***[11]**.** 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.*

[10] 2023 (3) SCC 439
[11] 1995 (1) SCC 551

25. [i] PW2 –Dr.B.V. Subba Reddy, is the Doctor, who treated the petitioner. He deposed that on 22.11.2006 petitioner was admitted to Viswa Bharati Super Specialty Hospital with a fracture of right wrist joint and right ring finger, surgery was done on right wrist joint, plates and screws fixed on 24.11.2006. He was discharged on 28.11.2006. Ex.X1 - case sheet was issued by the Viswa Bharathi Hospital. Ex.A15 are the X-rays taken at Viswa Bharathi Hospital and Ex.A8 are the prescriptions given by him. Even after discharge the patient approached him for regular checkup on 04.12.2006, 14.12.2006 and 27.12.2006. There is deformity of right ring finger. There is difficulty in holding objects. Physiotherapy is advised. During the cross examination it is listed that PW2 did not give MLC intimation and the same will be done by the Nursing home authorities. He do not know whether MLC intimation is given to police authorities.

[ii] As per Ex.X1-MLC intimation is given at Government General Hospital outpost. As per Ex.A2-wound certificate, out of (4) injuries, injury No.1 is grievous and (3) other are simple in nature. Ex.A5 medical bills are standing for Rs.24,432/-. They are coupled with the prescriptions. Ex.A6 and Ex.A7 also containing the treatment record of Viswa Bharathi Hospital. Ex.A7 is around Rs.2,000/-. Ex.A8 is the Test Reports. Ex.A9 is the Treatment Certificate with Bills. Ex.A11 is another bunch of Bills issued by Apollo Hospital, Hyderabad. They are standing around Rs.25,000/-.

[iii] From the evidence on record, the following aspects can be safely inferred and believed:-

1) The petitioner suffered four injuries. Three among them are simple.

2) Petitioner was treated in three different hospitals.

3) PW.2 –Doctor, treated the petitioner. There is no evidence indicating permanent disability.

4) Income can be taken on notional basis, for want of proper proof.

5) Income tax returns filed unable to lend sufficient contribution.

6) Hospitalization and intermediate treatment can be accepted.

[iv] In the light of the evidence and probable inferences mentioned above, the entitlement of the petitioner for the compensation under various heads, found as follows:-

Sl. No.	**Head**	**Fixed by this Appellate Court**
1.	Pain and suffering a) grievous injury (1) b) Simple injuries (3)	**Rs.25,000/-** **Rs.20,000/-** **Rs.10,000/-**
2.	Extra nourishment, nervous shock etc.,	**Rs.5,000/-**
3.	Medical expenditure/treatment	**Rs. 50.000/-**
4.	Attendant charges	**Rs.10,000/-**
5.	Transportation	**Rs.10,000/-**
6.	Loss of earning capacity during treatment @5,000/-p.m.	**Rs.20,000/-**
	Total:	**Rs.1,50, 000/-**
	Interest (per annum)	7.5%

Liability:-

26. The defence of the delay is found fit to be ignored and when once it is shown that the offending vehicle is involved, as the Policy being in force, the Insurance Company is liable unless the violations are made out. Violations for want of driving license or any fundamental breach of Policy conditions are not shown. Therefore, the Insurance Company is liable to pay the compensation. Fraud, collusion etc., among the owner of the vehicle and the claimant is not shown with any evidence. Hence, the excuse of the Insurance Company is not acceptable. Therefore, the Insurance Company is liable to pay compensation in view of the Policy –Ex.B1. Hence, all the respondents, particularly respondent No.3 is liable.

27. In view of the discussion made above, point No.2 is answered in favour of the petitioner/claimant concluding that the petitioner/claimant is entitled for compensation of **Rs.1,50, 000/-** @7.5% p.a. from the date of petitioner till the date of deposit/realization. Though respondents 1 to 3 are jointly and severally liable, particularly respondent No. 3 is liable to pay. Point No.2 is answered accordingly.

Point No.3:

28. In view of the above discussion, this Court finds that the impugned order and decree passed by the learned MACT in M.V.O.P.No.437 of 2007

dismissing the claim petition, is not proper and the same is liable to be set aside. Point No.3 is answered accordingly.

Point No.4:-

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

(i) The order and decree dated 15.12.2012 in M.V.O.P.No.437 of 2007 passed by the learned MACT are set-aside.

(ii) M.V.O.P.No.437 of 2007 is **allowed as follows**:

(a) Claimant is entitled for a compensation of **Rs.1,50,000/- with interest at the rate of 7.5% per annum** from the date of petition till the date of deposit/realization.

(b) Respondent Nos.1 to 3 are jointly and severally liable. However, Respondent No.3/ Insurance Company is liable in view of the Insurance Policy.

(iii) Time for payment/deposit of the compensation amount is two (2) months.

(a) 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.

(b) If the petitioner/claimant fails to comply with (iii)(a) 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.

(iv) There shall be no order as to costs in the appeal.

As a sequel, miscellaneous petitions, if any, pending in the appeal shall stand closed.

A. HARI HARANADHA SARMA, J

Date: 01 .07.2026

Note:-

L.R. Copy be marked.
B/o.
Pnr

Whether the order is:

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

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

M.A.C.M.A. No.1406 of 2012

% 01.07.2026

S.Venkata Reddy, S/O.Late Pakki Reddy R/O.H.No.45/24-K-55-1, Ameena Abbas Nagar, Venkat Ramana Colony, Kurnool Town and District.
. …. Appellant

Versus

$ Andnada Rao, S/o.Late Krishna Rao, Major Owner Of Auto Bearing No.AP 28 W 1176 R/O.H.No.76/116/322/33, Ganesh Nagar, Kurnool And 2 Others.

…. Respondents

! Counsel for the Petitioner : Sri P.V.V.Satyanarayana

! Counsel for the Respondents : Mrs. T. V. Sridevi.

< Gist:

> Head Note:

? Cases referred:

2009 (13) SCC 530
(2011) 4 SCC 693 : (2011) 2 SCC (Civ) 426
2017 SCC OnLine Mad 38431
2025 AIAR (Civil) 1
2020 (04) SCC 413
2010(10)SCC 341
2007 (14) SCC 61
1992(2) SCC 567
2011 (1) SCC 343
2023 (3) SCC 439
1995 (1) SCC 551

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

M.A.C.M.A. No.1406 of 2012

S.Venkata Reddy, S/O.Late Pakki Reddy R/O.H.No.45/24-K-55-1, Ameena Abbas Nagar, Venkat Ramana Colony, Kurnool Town and District.
. .... Appellant

Versus

$ Andnada Rao, S/o.Late Krishna Rao, Major Owner Of Auto Bearing No.AP 28 W 1176 R/O.H.No.76/116/322/33, Ganesh Nagar, Kurnool And 2 Others.

.... Respondents

DATE OF ORDER PRONOUNCED: 01.07.2026

SUBMITTED FOR APPROVAL:

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

1. Whether Reporters of Local Newspapers may be allowed to see the Order? Yes/No
2. Whether the copies of Order may be marked to Law Reporters/Journals? Yes/No
3. Whether Your Lordships wish to see the fair copy of the Order ? Yes/No

A. HARIHARANADHA SARMA, J

THE HON'BLE SRI JUSTICE A. HARI HARANADHA SARMA

M.A.C.M.A.No.1406 of 2012

01.07.2026

Pnr