

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

MACMA No.410 OF 2006

Between:

R. Amarnath Reddy S/o Chandra Sekhara Reddy
Aged 29 yeras, Occ: Software Engineer,
R/o Imamguda, Jayaprakashnagar, Hyderabad

... Appellant

And

1. Mohd. Aijaz Ahmed S/o. not known, aged major
R/o 7-1-2-632/118, Bapunagar, S.R.Nagar, Hyd.

2. The Oriental Insurance Co. Ltd., rep. by its
Divisional Manager, DO-IV, 6-2-976,
Khairatabad, Hyderabad

... Respondents

DATE OF ORDER PRONOUNCED:

12.02.2024

Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

- 1 Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No
- 2 Whether the copies of judgment may be marked to Law Reporters/Journals Yes/No
- 3 Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? Yes/No

K.SURENDER, J

* THE HON'BLE SRI JUSTICE K. SURENDER
+ MACMA No.410 of 2006

% Dated 12.02.2024

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Aged 29 yeras, Occ: Software Engineer,
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Khairatabad, Hyderabad

! Counsel for the Petitioner: Sri K. Dhanunjaya Reddy

^ Counsel for the Respondent No.1: Sri Mohammed Ismail

^ Counsel for the Respondent No.2: Smt. I. Maamu Vani

>HEAD NOTE:

? Cases referred **Nil**

THE HON'BLE SRI JUSTICE K.SURENDER

M.A.C.M.A.No.410 of 2006

JUDGMENT:

This appeal is preferred by the appellant/claimant aggrieved by the quantum of compensation awarded by the II Addl. Chief Judge, City Civil Court, Hyderabad in O.P.No.2353 of 2001 on 04.01.2005.

2. Heard Sri K. Dhanunjaya Reddy, learned counsel for the appellant, Sri Mohammed Ismail, learned counsel for the respondent No.1/owner of the car and Smt. I. Maamu Vani, learned counsel for respondent No.2/Insurance Company.

3. The appellant was involved in a road accident, on 24.07.2001 at mid night, while he was proceeding on his two wheeler near Prakashnagar Fly Over Bridge along with his friend, one Ambassador car came in opposite direction and hit the two wheeler, resulting in injuries. A case vide Crime No.290 of 2001 for the offence under Section 338 of IPC was registered by the PS Begumpet, Hyderabad against the car driver.

4. The claim application was made by the claimant in October, 2001. The learned Trial Court having considered the evidence on record has granted total compensation of Rs.1,22,800/- under different heads with interest @ 9% per annum from the date of filing of petition till the date of deposit of amount into the Court.

5. Learned counsel for the claimant submits that the claimant was working as a Software Engineer and earning an amount of Rs.5,000/- per month, but the Trial Court had taken the monthly income at Rs.1,000/- while computing the disability. It is further submitted that the Trial Court failed to take into consideration the Disability Certificate/Ex.A5 and granted unreasonable compensation of Rs.40,800/- under the head of disability. He submits that the Trial Court has failed to take into consideration the injuries that were sustained by the claimant and failed to grant any amount for the same. It is submitted that the Trial Court has granted the compensation amount of Rs.1,22,800/-

against the claimed amount of Rs.3,50,000/- and hence, prayed for re-assessment and to award just compensation.

6. On the other hand, learned counsel appearing for the respondent insurance company as well respondent/owner of the car submits that the compensation that was awarded by the Trial Court is just and proper.

7. Admittedly, there is no dispute about the fact that the claimant has sustained injuries in the accident. The learned Trial Judge found that though the claimant has produced Ex.A8/Salary Certificate issued by M/s. Interactive Education Software Systems, the said certificate was not proved by producing any oral or documentary evidence in support of the same and accordingly, an amount of Rs.1,000/- was considered as monthly income.

8. The only ground that is raised by the appellant is that Ex.A8 was marked in the Trial Court without objection. According to the learned counsel for the appellant, the appellant has completed MCA in MVJ College of Engineering and the study

certificate was not produced before the Trial Court since there was no dispute regarding the salary certificate/Ex.A8. The Trial Court erred in considering the income of the appellant as that of a daily wage labourer at Rs.1,000/- per month.

9. On the other hand, learned standing counsel for the insurance company would submit that the burden lies on the claimant to prove the salary certificate/Ex.A8. Mere marking of salary certificate will not dispense the burden to prove it. The Trial Court has rightly considered the income of the claimant as Rs.1,000/- per month which can be equated to a daily wage labourer.

10. From the inception, when the claim application was made in October, 2001, it has been specifically stated by the claimant that he is a graduate and as on the date of accident, he was working as a Software Engineer in M/s. Interactive Education Software Systems and earning an amount of Rs.5,000/- per month.

11. Ex.A8/Salary certificate was marked in support of the claim that the claimant was working with the said Firm and was drawing monthly salary of Rs.5,000/-. During the course of cross examination of the claimant as PW1, no suggestion was made to him that a false salary certificate is filed or that he was not working with the said firm. In the said background, it is not the case of the Insurance company that Ex.A8 was fabricated for the purpose of the claim. More particularly, when the contention of the appellant from the beginning is that he was a Graduate and earning an amount of Rs.5,000/- per month, this Court deems it appropriate to set aside the finding of the Trial Court to the extent of assessing the income of the appellant at Rs.1,000/- per month and consider the monthly income at Rs.5,000/-.

12. As per the evidence on record, the Trial Court has considered the disability at 20%. Since, this court has taken the income of the claimant at Rs.5,000/- per month, as per his age i.e. 25 years as on the date of accident, the appropriate multiplier

would be '17'. Hence, the claimant is entitled Rs.2,04,000/- (Rs.60,000X17X20/100) for loss of future income due to disability.

13. As far as the compensation that was granted under the other heads is concerned, the Trial Court has rightly granted the same as per the evidence on record and this Court is not inclined to interfere with the said findings.

14. In the light of the above discussion, the claimant is entitled to the following compensation under different heads:

Head	Compensation awarded by the Trial Court	Compensation awarded by this Court
Fractures	Rs.45,000/-	Rs.45,000/-
Pain and sufferings and extra nourishment	Rs.10,000/-	Rs.10,000/-
Transportation	Rs.1,000/-	Rs.1,000/-
Loss of future income due to disability	Rs.40,800/-	Rs.2,04,000/-
Medical bills	Rs.25,000/-	Rs.25,000/-
Medical attendant	Rs.1,000/-	Rs.1,000/-
Total	Rs.1,22,800/-	Rs.2,86,000/-

15. In the result, the Motor Accident Miscellaneous Appeal is partly allowed enhancing the compensation amount awarded by the Trial Court from Rs.1,22,800/- to Rs.2,86,000/- as hereunder:

(a) The enhanced amount shall carry interest at 7.5% p.a. from the date of petition till the date of realization.

(b) The respondent/insurance company shall deposit the amount within a period of (8) weeks from the date of receipt of copy of judgment. On such deposit, claimant is entitled to withdraw the entire amount without furnishing any security.

Pending miscellaneous petitions, if any, shall stand closed.

K.SURENDER, J

Date : 12.02.2024
gvl