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APHC010593752012



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

[3520]

FRIDAY, THE THIRTEENTH DAY OF MARCH  
TWO THOUSAND AND TWENTY SIX

**PRESENT**

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

**MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 858/2012**

**Between:**

1. GANJI DEMULLU NAIDU, S/O LATE RAMUNaidu R/O RAVIKAMATHAM  
VILLAGE AND MANDAL, VISAKHAPATNAM.

**...APPELLANT**

**AND**

1. ML SRINIVASA RAO AND 2 OTHERS, S/O RAJA RAO DRIVER OF THE  
LORRY NO. AP 16 T 3988 R/O 17/319, VALANDAPALEM,  
MACHILIPATNAM,

2. S NAGESWARA RAO, S/O KRISHNAYYA R/O 14-1, NAVATA ROAD  
TRANSPORT ROAD, OLD CHECK POST JUNCTION, BANDAR ROAD,

3. NATIONAL INSURANCE COMPANY LIMITED, REP. BY ITS DIVISIONAL  
MANAGER, INSURER OF THE LORRY NO. AP 16 T 3988  
DWARAKANAGAR, VISAKHAPATNAM.

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

Appeal filed under Order 41 of CPC praying that the Highcourt may be  
pleased to

**Counsel for the Appellant:**

1.G RAMA GOPAL

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

1.

2.V VEERABHADRA CHARY

**The Court made the following:**

**THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA****M.A.C.M.A.No.858 of 2012****JUDGMENT:****Introductory:**

1. This appeal is directed against the Judgment and decree dated 28.12.2011 passed in M.O.P. No.1332 of 2005 by the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, Visakhapatnam (for short “the learned MACT”). The claimant before the learned MACT is the appellant herein.

2. Feeling aggrieved and dissatisfied with the quantum of compensation of Rs.20,000/- awarded as against the claim made for Rs.3,00,000/-, the present appeal is filed.

3. Respondent Nos.1 and 2 herein are the driver and owner of the lorry bearing registration No. AP 16 T 3988 (hereinafter referred to as “the offending vehicle”), and Respondent No.3 is the insurer of the offending vehicle.

4. For the sake of convenience, the parties will be referred to as the claimant and the respondents as and how they are arrayed before the learned MACT.

**Case of the claimant/ appellant:**

5(i). On 26.07.2005 at about 06:00 a.m., the claimant/appellant was going to Gantikoram from Ravikamatham on his motorcycle with milk cans to purchase milk. When he reached near Gurrayya Kotta Bridge, the offending vehicle, driven by its driver, came in a rash and negligent manner and dashed the claimant's

motorcycle from the back side. As a result, the claimant sustained grievous injuries all over the body, fractures on ribs, left ankle, right shoulder, right thigh, and head injury. He was immediately taken to K.G. Hospital, Visakhapatnam for treatment and was admitted as an in-patient and took treatment from 26.07.2005 to 02.09.2006. He has also undergone four operations in the said hospital.

(ii) As on the date of accident, the claimant was engaged in milk business and agricultural activities and was earning about Rs.10,000/- per month.

(iii). The accident occurred solely due to the rash and negligent driving of the offending vehicle by its driver. A case in Crime No.25 of 2005 was registered against respondent No.1 driver by the Ravikamatham Police.

6. Respondent Nos.1 and 2, the driver and the owner of the offending vehicle, remained *ex parte* before the learned MACT.

**Case of respondent No.3 / Insurance Company:**

7(i). Age, occupation and income of the claimant and the nature and effect of injuries, cost of treatment etc. shall be strictly proved.

(ii). The driver of the motor cycle had no valid driving licence, and the accident might have occurred due to the petitioner's negligence.

(iii). It is also the case of the respondent Insurance Company that since the claimant was negligent, he is not entitled to compensation and respondent No.3 / Insurance Company is not liable.

8. On the strength of pleadings, the following issues were settled for trial by the learned MACT:

(i). Whether the accident occurred due to the rash and negligent driving of the lorry bearing No.AP 16 T 3988?

(ii). Whether the petitioner is entitled for compensation? If so, to what amount?

(iii). To what relief?

**Evidence before the learned MACT:**

9(i). The claimant was examined as P.W.1 and one Dr. Chadisetty Subba Rao examined as P.W.2.

(ii). On behalf of the claimant, Exs.A1 to A16 and Ex.X1 (case sheet) were marked in support of his claim.

(iii). The Insurance Company did not examine any witness or produce any rebuttal evidence.

**Findings of the learned MACT:**

10(i). The accident occurred due to the rash and negligent driving of the offending vehicle.

(ii). The claimant failed to establish his income and also failed to prove permanent disability.

(iii). Claimant is entitled to a sum of Rs.20,000/- towards pain and suffering.

(iv). Claims for past earnings, medical expenses, transport, extra nourishment, permanent disability and loss of earning capacity cannot be allowed.

(v). All respondents are jointly and severally liable to pay the awarded amount.

11. Heard both sides extensively. Perused the record. Thoughtful consideration is given to the arguments advanced by both sides.

**Arguments in the appeal:**

**For the claimant:**

12(i). The compensation awarded is grossly inadequate.

(ii). The learned MACT failed to properly appreciate the medical evidence available on record and erroneously came to the conclusion that the injuries sustained by the claimant are simple in nature and thereby awarded a meagre amount of Rs.20,000/-. The evidence on record clearly establishes that the claimant sustained grievous injuries to the abdomen and spinal cord and that his spleen was severely damaged.

(iii). The claimant had undergone several operations at K.G. Hospital. These facts are reflected in Ex.A13 and are also substantiated by the evidence of the Doctor examined as PW.2. Therefore, the finding of the learned MACT that the claimant sustained simple injuries and awarding Rs.20,000/- is totally unjustified.

(iv). The learned MACT failed to appreciate that due to the injuries sustained in the accident, the claimant incurred huge medical expenditure. It is also submitted that the claimant had to sell away his agricultural lands to meet the medical

expenses, extra nourishment and family sustenance and the said sale transactions were marked as Exs.A10 and A11. However, the learned MACT failed to properly consider the said evidence.

(v). The learned MACT ought to have assessed the disability at 100% and awarded compensation accordingly.

(vi). The award passed by the learned MACT is contrary to the scope and spirit of Chapter XII of the Motor Vehicles Act, 1988.

(vii). The learned MACT ought to have awarded the compensation as prayed for.

**For the respondent-Insurance Company:**

13(i). The compensation awarded by the learned MACT under the impugned order is excessive.

(ii). The claimant failed to produce sufficient documentary evidence to prove his income, medical expenditure or permanent disability and therefore the learned MACT was justified in disallowing those claims.

(iii). The compensation awarded by the learned MACT is reasonable in the facts and circumstances of the case and that the claimant is not entitled to any further enhancement.

(iv). There are no grounds to interfere.

14. This is an appeal filed by the claimant. There is no appeal by the Insurance Company. Therefore, the liability of the Insurance Company is out of dispute.

15. The points that arise for determination in this appeal are:

- 1) Whether the compensation of Rs.20,000/- awarded by the learned MACT to the claimant under the impugned judgment dated 28.12.2011 in M.O.P.No.1332 of 2005 on the file of the learned MACT is proper, viz. just and reasonable or requires any modification and if so, to what extent.
- 2) What is the result of the appeal?

**Point No.1:**

**Precedential Guidance:**

16. 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 Supreme Court made in ***Kajal V. Jagadish Chand and Ors.***<sup>2</sup>, referred to various

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

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

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 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*

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

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

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

*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 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.*

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

*(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.*

### **Evidence and Analysis:**

17(i). P.W.2, who treated the petitioner, stated that the claimant was admitted in the hospital on 26.07.2005 and discharged on 05.08.2005. Again, the petitioner

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

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

was admitted on 12.09.2005 and discharged on 13.09.2005. Again, there was admission on 06.12.2005 and surgery was conducted on 09.12.2005 and he was discharged on 17.12.2005.

(ii). Further, the claimant was admitted in hospital on 18.04.2006 and the operation was conducted on 19.04.2006 and he was discharged on 22.04.2006. Again, there was admission on 29.08.2006, operation was conducted on 01.09.2006 and he was discharged on 02.09.2006. Nothing important was elicited in the cross- examination.

18. The petitioner has taken treatment in a Government Hospital. That does not mean that the petitioner might not have incurred any expenditure for medicines, transportation and attendant charges etc. Therefore, the petitioner is entitled for reasonable compensation under the heads of pain and suffering attendant charges and reasonable medical expenditure etc.

19. The petitioner/claimant was engaged in milk business claimed that he was earning an income at Rs.10,000/- per month and as per his evidence, he sustained grievous injuries all over the body, especially burst of spleen, fracture of ribs on both sides, fracture of left ankle, right shoulder, right thigh and head injury etc.

20. The only point considered by the Court is that there is no proof of loss of income and no medical bills are filed to indicate the expenditure incurred. The precedential guidance indicates the difficulties faced by the parties in placing

documents before the Court and procurement of medical records may sometimes be difficult. Therefore, the Court has to take empathetic concerns and holistic view and certain hypotheses are also permissible.

21. The findings of the learned MACT indicate that no medical bills are filed and there is no evidence to prove that any amount was spent and that the claimant might have taken treatment free of cost in the Government Hospital and that the petitioner is not entitled to any compensation except Rs.20,000/-. These findings and quantification of compensation are found just and reasonable.

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

<b>Sl. No.</b>	<b>Head</b>	<b>Granted by the learned MACT</b>	<b>Fixed by this Appellate Court</b>
1.	Pain and suffering	Rs.20,000/-	<b>Rs.60,000/-</b>
2.	Loss of income due to disability	-Nil-	-Nil-
3.	Transportation	-Nil-	<b>Rs.20,000/-</b>
4.	Medical expenditure/treatment	-Nil-	<b>Rs.10,000/-</b>
5.	Attendant charges	-Nil-	<b>Rs.20,000/-</b>
6.	Loss of income / earnings during the period of hospitalization etc.	-Nil-	<b>Rs.20,000/-</b>

7.	Loss of amenities	-Nil-	<b>Rs.20,000/-</b>
	<b>Total:</b>	Rs.20,000/-	<b>Rs.1,50,000/-</b>
	<b>Interest (per annum)</b>	7.5%	7.5%

23. 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.1,50,000/- and the judgment and decree dated 28.12.2011 passed by the learned MACT in M.O.P.No.1332 of 2005 require modification accordingly.

**Point No.2:**

24. In the result, the appeal is allowed in part as follows:

- (i) Compensation awarded by the learned MACT in M.O.P.No.1332 of 2005 at Rs.20,000/- with interest at the rate of 7.5% per annum is modified to Rs.1,50,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization.
- (ii) 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 balance amount is two months.
  - (a) If the 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 claimant and file the necessary proof before the learned MACT.

(b) If the claimant fails to comply with (iii)(a) above, Respondent No.3/Insurance Company shall deposit the amount before the learned MACT and the claimant is entitled to withdraw the amount at once on deposit.

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

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

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**A. HARI HARANADHA SARMA, J**

Date:13.03.2026  
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**HON'BLE SRI JUSTICE A. HARI HARANADHA SARMA**

**M.A.C.M.A.No.858 of 2012**

**13.03.2026**

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