

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

FRIDAY, THE ELEVENTH DAY OF AUGUST  
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE SRI JUSTICE V. GOPALA KRISHNA RAO



**M.A.C.M.A. NO: 366 OF 2012**

Appeal filed under Section 173 of M.V. Act, aggrieved by the Order and Decree dated 12-07-2011 in M.V.O.P No.619 of 2004 on the file of the Court of Motor Accidents Claims Tribunal, Nellore (Principal District Judge)

**Between:**

P.Venkat Rami Reddy, S/o Chinnappa Reddy, Aged about 55 years, Hindu,  
Employee, R/o Saraswathi Nagar, Nellore.

**...Petitioner/Appellant**

**AND**

1. M.Mallikharjuna, S/o Kondaiah, D.No.20-913, Kondadibba, Mulapet, Nellore.
2. United India Insurance Company Limited, Rep. by its Divisional Manager,  
Divisional Office, Brindavan, Nellore.

**...Respondents**

**Counsel for the Appellant: Sri S. Lakshminarayana Reddy**

**Counsel for the Respondents: Sri N. Nageswar Rao**

**The Court made the following Judgment:**

**THE HON'BLE SRI JUSTICE V.GOPALA KRISHNA RAO**

**M.A.C.M.A.No.366 of 2012**

**JUDGMENT:**

The appellant is the Claimant in M.V.O.P.No.619 of 2004 on the file of the Motor Accidents Claims Tribunal -cum- Principal District Judge, Nellore and the respondents are the respondents in the said case.

2. For the sake of convenience, both the parties in the appeal will be referred to as they are arrayed in the claim application.

3. The claimant filed a Claim Petition under section 166-A of Motor Vehicles Act, 1988 against the respondents praying the Tribunal to award an amount of Rs.5,10,000/- towards compensation for the injuries sustained by him in a Motor Vehicle Accident occurred on 21.07.1999.

4. The brief averments of the petition are as follows:

The petitioner was working as Project Manager in M/s.Esteem Constructions, Mandya, Karnataka State and earning Rs.5,000/- per month. On 21.07.1999 at about 8.50 p.m. while the petitioner and

one K.Sekhar Reddy as a pillion rider were proceeding on a scooter from Gudur to Nellore and when they reached near Manubolu village limits, opposite to milk dairy, a car bearing No.AP 26A 4572, hereinafter referred to as 'offending vehicle', came from the opposite direction, driven by its driver, in a rash and negligent manner and dashed against the scooter of the petitioner, resulting which the petitioner sustained grievous injuries, hence the petitioner claimed an amount of Rs.5,10,000/- towards compensation.

5. The first respondent remained exparte. The second respondent filed counter denying the claim of the claimant and contended that the petitioner is not entitled any compensation and the second respondent is not liable to pay any compensation to the petitioner.

6. Based on the above pleadings, the Tribunal framed the following issues:

- i. Whether the injured-claimant sustained any injuries in the motor accident dated 21.07.1999 due to rash and negligent driving of the driver of the car bearing No.AP 26A 4572?

- ii. Whether the claimant is entitled for any compensation, If so, to what amount and against which of the respondents?
- iii. To what relief?

7. During the course of enquiry in the claim petition, on behalf of the petitioner, PW1 to PW3 were examined and Ex.A1 to Ex.A13 were marked. No oral evidence was adduced on behalf of respondents, however, Ex.B1 was marked.

8. At the culmination of the enquiry, after considering the evidence on record and on appreciation of the same, the Tribunal has given a finding that the petitioner miserably failed to establish the injuries sustained by him in a road accident and dismissed the claim application. Aggrieved by the same, the claimant filed the present appeal claiming the compensation amount.

9. Heard the learned counsel for petitioner and the learned counsel for respondents.

10. Now, the points for consideration are:



- 1. Whether the Tribunal justified in holding that the claimant failed to prove that he received grievous injuries in the alleged accident dated 21.07.1999, due to rash and negligent driving of the driver of the offending car?***
- 2. Whether the Order of Tribunal needs any interference? If so, to what extent?***

11. POINT Nos.1 and 2:-

The claimant, who was examined as PW1 testified that on 21.07.1999 at 8.50 p.m. while he was coming from Gudur to Nellore on a scooter, at that time, the driver of the offending car drove the car in a rash and negligent manner and dashed his two-wheeler and that he sustained grievous injury and simple injury in the said road accident. The petitioner also relied on Ex.A1 attested copy of First Information Report and Ex.A2 attested copy of charge sheet. PW2- Dr.C.Rajasekhar Reddy testified that he treated the injured/ claim petitioner and he examined the injured and he sustained injuries in a road accident. PW3-Dr.D.Venkata Subbarao testified that he examined the claimant and issued the disability certificate.

12. The learned counsel for appellant would submit that the Tribunal dismissed the claim application on the main ground of inordinate delay in lodging the complaint by the petitioner and so also the delay of giving report to the police. The law is well settled in a judgment of **Ravi Vs. Badrinarayan and others** in Civil Appeal No.1926 of 2011. In that decision the Apex Court held that "*delay in lodging 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 occupied the mind the kith and kin to such an extent that they give more importance to getting the victim treated rather than rushing to the Police Station*". In the said judgment, the Apex Court further held that "in cases of delay, the courts are required to examine the evidence with closure scrutiny and in doing so, should also scrutinize the contents of First Information Report.

13. PW1 testified in his evidence that on 21.07.1999 at 8.50 p.m. while he was coming from Gudur to Nellore on a scooter, at that time, the driver of the offending car drove the car in a rash and

negligent manner and dashed against his motor cycle and that he sustained grievous injuries. In Ex.A1, it was clearly stated by PW1 about the reasons for delay in filing complaint. In Ex.A1, PW1 stated that after receipt of injuries in the Motor Vehicles accident dated 21.07.1999, he became unconscious and he was taken to Dr.P.Krishna Reddy, Nellore and on his advice, he was taken to Jayabharat Hospital, Nellore and he was in Jayabharat Hospital for seven days under treatment of Dr.P.Krishna Reddy and after seven days he was taken to Vijaya Health Center, Madras and he was in Vijaya Health Center, Madras for a period of four and half months for treatment and in the fag end of December, 1999, he came to know the details of the accident at Nellore through his relative K.Sekhar Reddy, who was along with him at the time of accident and he informed him about the fact of driver stopping the car at short distance and revealed the name of the driver as D.Subrahmanyam and also informed the number of the car. Petitioner clearly explained the reasons in Ex.A1 about the delay of lodging complaint in the police station. The petitioner also proved that after accident he obtained treatment in various hospitals at different places, the same is also supported by PW2 and PW3. The

First Information Report is marked as Ex.A1 through PW1. Ex.A1 clearly goes to show that the crime was registered against the driver of the offending car. Ex.A2 attested copy of charge sheet shows that after registering the case against the driver of the offending car, the concerned police investigated the case and by fixing the liability on the driver of the offending car, filed the charge sheet against the offending car. The petitioner to discharge his burden relied on Ex.A1, Ex.A2 and his testimony as PW1 and also the evidence of PW2 and PW3. To disprove the evidence produced by the petitioner, no evidence is produced by the respondents. In the case of **K.Rajani and others Vs. M.Satyanarayana Goud and another**<sup>1</sup>, it was held that “when the Insurance Company came to know that the police investigation is false, they must also challenged the charge sheet in appropriate proceedings. If at all the findings of the police are found to be in correct it is for the Insurance Company to produce some evidence to show that the contents of the charge sheet are false”.

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<sup>1</sup> 2015 ACJ 797



14. The claim petition is filed by the claimant under Section 166-A of Motor Vehicles Act, 1988, the Tribunal has to determine the amount of fair compensation to be granted in the event an accident has taken place by reason of negligence of a driver of Motor Vehicle. The claimant has to establish his case on the touch stone of preponderance of probability. The standard of proof beyond reasonable doubt cannot be applied while considering the petitioner seeking compensation on account of injuries in a road traffic accident. The evidence of PW1 proves that the petitioner sustained one grievous injury and one simple injury in a road accident. PW2- doctor, who treated the petitioner supported the petitioner about the treatment underwent by the claim petitioner. PW3, who is another doctor, treated the claim petitioner and issued a disability certificate. But to rebut the said evidence, no evidence is produced by the respondents. Therefore, for the foregoing reasons it is undoubtedly clear that the claimant sustained injuries in a road accident, which was caused by the driver of the offending car, because of the rash and negligent driving of the driver of the offending car only, the claim petitioner sustained injuries and in the said accident, the petitioner sustained grievous injuries.

15. PW1 was justified by exhibiting Ex.A6 that he paid an amount of Rs.20,000/- towards medical expenses. As seen Ex.A3 wound certificate, the petitioner sustained one grievous injury and one simple injury, therefore, an amount of Rs.15,000/- is awarded towards one grievous injury and an amount of Rs.3,000/- is awarded towards one simple injury. As stated supra, the petitioner exhibited Ex.A6 to prove that he spent an amount of Rs.20,000/- towards medical expenses, therefore an amount of Rs.20,000/- is awarded to the claim petitioner towards medical expenses. The claim petitioner relied on 15 Maruthi Ambulance cash bills, which are marked as Ex.A5, but to prove the said Ex.A5 bills, the petitioner failed to examine the driver or owner of the Maruthi Ambulance, therefore, an amount of Rs.5,000/- only is awarded towards transport expenses. The material on record reveals that the petitioner incurred treatment in Vijaya Hospital. In order to prove the same, the petitioner relied on Ex.A4 bunch of medical bills (49 in number), therefore, an amount of Rs.8,000/- is awarded towards medical expenses spent by the petitioner in Vijaya hospital. The contention of the petitioner is that he is suffering with a disability of 40%. PW2 testified that the petitioner has permanent disability of 30%

to his right leg. PW3, who issued a disability certificate opined that the petitioner is suffering with 40% temporary disability to his right leg. It is a settled principle that disability to a particular limb cannot be treated as a disability to the whole body. On considering the evidence of PW2 and PW3 and on considering the certificate issued by PW3, the disability suffered by the petitioner is arrived at 10%. The claim of the claimant is that he used to earn Rs.5,000/- per month by working as private employee in a private organization. No evidence is produced by the petitioner to show that he used to earn an amount of Rs.5,000/- per month. The accident in question was occurred in the year 1999. In those days, an ordinary coolie can easily earn an amount of Rs.100/- per day. Accordingly, the monthly income of the petitioner is arrived at Rs.3,000/- i.e., Rs.36,000/- per annum. As per the disability certificate issued by PW3, the age of the petitioner is 45 years. The relevant multiplier applicable to the age group of the petitioner is 14. Therefore, an amount of Rs.50,400/- ( $36,000 \times 10\% \times 14$ ) is awarded towards compensation for the 10% disability sustained by the petitioner. In total, the claimant is entitled an amount of Rs.1,01,400/- towards compensation. It is not in dispute that the offending vehicle is



insured with second respondent Insurance company and the policy is also in force and the driver of the offending vehicle is having valid driving licence at the time of accident, therefore, the second respondent Insurance Company has to indemnify the first respondent/ owner of the offending vehicle. Accordingly, the second respondent is having liability to pay the compensation as ordered above.

16. In the result, this appeal is partly allowed and the order dated 12.07.2011 passed in MVOP No.619/2004 on the file of the Motor Accidents Claims Tribunal-cum-Principal District Judge, Nellore is liable to be set aside and the claimant is entitled an amount of Rs.1,01,400/- towards total compensation with interest @6% p.a. from the date of petition, till the date of payment. The second respondent is directed to deposit the compensation amount of Rs.1,01,400/- with interest as ordered above, within two months from the date of this judgment, before the Tribunal. On such deposit, the appellant is entitled to withdraw the same. There shall be no order as to costs.



Miscellaneous petitions, if any, pending in this appeal shall stand closed.

**SD/- K J RAJA BABU**  
**ASSISTANT REGISTRAR**

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**SECTION OFFICER**

To,

1. The Chairman, Motor Accident Claims Tribunal-cum-Principal District Judge, Nellore. **(with records if any)**
2. One CC to Sri S. Lakshminarayana Reddy, Advocate [OPUC]
3. One CC to Sri N. Nageswar Rao, Advocate [OPUC]
4. The Section Officer, VR Section, High Court of Andhra Pradesh at Amaravati
5. **Three CD Copies**

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**HIGH COURT**

**DATED:11/08/2023**

**JUDGMENT + DECREE**

**MACMA.No.366 of 2012**



**PARTLY ALLOWING THE M.A.C.M.A.  
WITHOUT COSTS**

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This appeal coming on for hearing and upon perusing the grounds of appeal, the judgment and decree of the Lower Court and the material papers in the appeal and upon hearing the arguments of Sri. S Lakshminarayana Reddy, Advocate for the appellant and Sri N. Nageswar Rao, Advocate for the Respondents.

**This Court doth order and decree as follows:**

1. That the appeal be and hereby is allowed in part.
2. That the order dated 12.07.2011 passed in MVOP No.619/2004 on the file of the Motor Accidents Claims Tribunal-cum-Principal District Judge, Nellore is liable to be set aside.
3. That the claimant is entitled an amount of Rs.1,01,400/- towards total compensation with interest @6% p.a. from the date of petition, till the date of payment.

4. That the second respondent is directed to deposit the compensation amount of Rs.1,01,400/- with interest as ordered above, within two months from the date of this judgment, before the Tribunal.
5. That on such deposit, the appellant is entitled to withdraw the same.
6. That there shall be no order as to costs in this M.A.C.M.A.

**SD/- K J RAJA BABU  
ASSISTANT REGISTRAR**



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**SECTION OFFICER**

To,

1. The Chairman, Motor Accident Claims Tribunal-cum-Principal District Judge, Nellore.
2. **Three CD Copies**

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sree





**HIGH COURT**

**DATED:11/08/2023**

**DECREE**

**MACMA.No.366 of 2012**



**PARTLY ALLOWING THE M.A.C.M.A.  
WITHOUT COSTS**

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