

APHC010619622016



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

[3524]

THURSDAY, THE ELEVENTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

FIRST APPEAL NO: 1025/2016

Between:

Bhavanam China Venkata Reddy,

...APPELLANT

AND

Dantla Subba Reddy and Others

...RESPONDENT(S)

Counsel for the Appellant:

1.SASANKA BHUVANAGIRI

Counsel for the Respondent(S):

1.GHANTA SRIDHAR

FIRST APPEAL NO: 233/2016

Between:

Dantla Subba Reddy and Others

...APPELLANT(S)

AND

Bhavanam Chinna Venkata Reddy

...RESPONDENT

Counsel for the Appellant(S):

1.GHANTA SRIDHAR

Counsel for the Respondent:

1.SASANKA BHUVANAGIRI

The Court made the following:

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

APPEAL SUIT Nos.1025 and 233 of 2016

COMMON JUDGMENT *(per Justice Maheswara Rao Kuncheam)*

These two appeal suits have been instituted under Section 96, read with Order XLI Rule 1 of the Code of Civil Procedure. One by the plaintiff and the other by the defendants against the judgment and decree dated 14.10.2015 in O.S.No.68 of 2009, passed by the learned II Addl. District Judge, Guntur.

2. For the sake of convenience, the parties will hereinafter be referred to by the nomenclature as they were arrayed in the trial Court.

3. O.S.No.68 of 2009 was instituted seeking to pay compensation of Rs.20,00,000/- with interest at 12% per annum against the defendants.

4. *Vide* judgment and decree dated 15.10.2015, the learned II Addl. District Judge, Guntur decreed the suit in part for a sum of Rs.4,04,000/- with subsequent interest at 9% per annum from the date of suit i.e., 07.04.2008, till the date of deposit and also suit costs.

5. The plaintiff filed A.S.No.1025 of 2016 against the disallowed claim and the defendants filed A.S.No.233 of 2016 against the entire decree.

6. Heard Sri Sasanka Bhuvanagiri, learned counsel for the appellant/plaintiff in A.S.No.1025 of 2016 & respondent in A.S.No.233 of 2016 and Sri Ganta Sridhar, learned counsel for the appellants in A.S.No.233 of 2016 & respondent in A.S.No.1025 of 2016, apart from perusing the material available on record.

Brief case of the plaintiff:-

7. The plaintiff claims that he is an agriculturist and also has a rice mill. According to the plaintiff, there were civil disputes between him and the defendants 1 and 2, who are own brothers, filed a civil suit O.S.No.513 of 2006 on the file of II Addl. Junior Civil Judge, Guntur, by arraying the plaintiff and his family members as parties. It is further submitted in the present plaint that, on 31.03.2006, the defendants unlawfully and without any authority dismantled the compound wall belonging to the plaintiff. The said action of the defendants was questioned by the plaintiff along with his brother on the morning of 01.04.2006. As such, the defendants attacked him and his brother and the 1st defendant stabbed the plaintiff with a knife

on the left temporal region (between the left eye and left ear) and also caused bleeding injuries, which led to the plaintiff's unconsciousness. It is the further case of the plaintiff that he was shifted to People's Trauma and Emergency Hospital, Guntur, on 01.04.2006, wherein, he took treatment in the Intensive Care Unit (ICU) and also as an inpatient from 01.04.2006 to 22.04.2006.

8. The plaintiff stated that due to grievous injuries, he underwent surgical operations for sub-arachnoid and intraventricular hemorrhage. He also asserted that his right side, including both right leg and right hand, was paralyzed and as a result of it, he was unable to do the signature. He further stated that his right eyesight was also greatly affected and in the course of treating his grievous injuries, he underwent medical treatment in multiple hospitals situated in Andhra Pradesh, Karnataka, and Tamil Nadu and also hospitals like NIMS, KIMS, and L.V.Prasad Eye-Institution located at Hyderabad.

9. In the process of medical treatment, the plaintiff incurred Rs.5,00,000/- towards expenses. He further asserts that due to his grievous injury, he has been permanently disabled to the extent of 85%,

which has led to multifarious problems and rendered him unable to carry out his manual labour work. As such, he was forced to depend on a daily attendant, for whose services he spends Rs.3000/- per month as salary.

10. The plaintiff also states that, despite having completed his B.Com. degree course, he is not able to manage his work relating to the agriculture, rice-mill, and sericulture unit, which results in great fiscal loss to him. Plaintiff further submitted that he is 32 years old (at the time of instituting the plaint) and in view of grievous injury caused by the defendants, his marriage chances were also affected.

11. In a nutshell, the plaintiff claims a total compensation of Rs.20,00,000/- from the defendants in view of injuries caused to him by the defendants. The plaintiff also lodged criminal proceedings U/s 307,326 R/w. 34 IPC against the defendants and the said case was culminated into S.C. No.125 of 2017 for trial against the defendants.

Brief case of the 1st defendant:

12. The case of the 1st defendant is that the plaintiff along with his cousin brother namely, Peda Venkata Reddy and others, being the aggressors, attacked him and the 2nd defendant on 01.04.2006. To treat the injuries,

1st defendant was admitted as an inpatient in the Government Hospital, Tenali, for ten days. The 2nd defendant got the injuries treated on the same day. A case was registered vide F.I.R. in Cr.No.40 of 2006 U/s. 324 IPC against the plaintiff and others at Chebrolu Police Station, but the said case was referred to as false by the police. Subsequently, defendants filed a private complaint against the plaintiff and others, which was numbered as C.C. No.772 of 2007 on the file of VI A.M.M., Guntur and subsequently, the said case was transferred to the file of Prl. Asst. Sessions Judge, Guntur, wherein, it was re-numbered as C.C. No.1 of 2008 to be tried along with S.C. No.125 of 2007.

13. It is further case of the 1st defendant that the defendants filed O.S. No.513 of 2006 on the file of II Addl. Junior Civil Judge, Guntur, against the plaintiff and others, wherein the Court has granted *status quo*, which was in force as on 01.04.2006. In spite of the said *status quo* order, the plaintiff and others started construction of the compound wall on 01.04.2006 in the morning hours. When the said action was questioned by the defendants 1 and 2, the plaintiff and others attacked them with weapons and caused multiple injuries, resulting in their admission to Government Hospital, Tenali. The 1st defendant asserted that the plaintiff

and his relatives were the aggressors and also raised the plea of private defense against the plaintiff. It is further contended that the plaintiff with a malicious intention, filed a false case against the defendants. The 1st defendant also denied all the allegations levelled in the plaint and according to him, the very institution of suit is not maintainable.

14. The 2nd defendant filed his written statement by reiterating the very same averments of the 1st defendant as detailed supra in his written statement.

15. The Trial Court framed the following issues for trial in the civil suit:-

1. Whether the plaintiff sustained injuries on account of alleged assault by the defendants?
2. Whether the plaintiff is entitled to compensation as claimed?
3. To what relief?

16. For the sake of comprehensive view, the appendix of oral and documentary evidence produced before the Trial Court is extracted here below:-

Oral Evidence before the II Addl. District Judge, Guntur:-

<u>Witnesses for the plaintiff:-</u>			
Sl.No.	Name of the witness	Examined as	Remarks
1	Bhavanam China Venkata Reddy	PW-1	Plaintiff
2	Bhavanam Peda Venkata Reddy	PW-2	Eye witness
3	Dr.S.Hanumantha Rao	PW-3	Doctor
4	Dr.N.V.Sundaracharyulu	PW-4	Professor of Neurology (Member of Medical Board)
5	Dr.K.S.Vara Prasad	PW-5	Neuro Surgeon

Documentary Evidence before the II Addl. District Judge, Guntur:-

<u>For the plaintiff:-</u>		
Sl.No.	Date & document marked as	Description of the Document
1	02.04.2006 (Ex.A-1)	C.C of FIR in Crime No.39 of 2006 Chebrole P.S.
2	01.04.2006 (Ex.A-2)	CC of Statement recorded by Police
3	01.04.2006 (Ex.A-3)	CC of Admission intimation
4	05.05.2006 (Ex.A-4)	CC of wound certificate

5	20.04.2006 (Ex.A-5)	CC of Memo filed by prosecution
6	05.08.2006 (Ex.A-6)	CC of Mediatornama
7	05.08.2006 (Ex.A-7)	CC of seizure Mediatornama
8	01.04.2006 (Ex.A-8)	CC of charge sheet
9	(Ex.A-9)	Medical record of different hospitals (22 Nos.)
10	(Ex.A-10)	Medical bills (No.23) for Rs.37,307.50 ps.
11	31.03.2009 (Ex.A-11)	Office copy of Telegraphic notice
12	31.03.2009 (Ex.A-12)	Telegraphic receipt
13	24.04.2009 (Ex.A-13)	Reply notice
14	09.09.2007 (Ex.A-14)	Pattadar pass book for Ac.1.25cents in Sy.No.309
15	09.09.2007 (Ex.A-15)	Ownership rights charter for the land mentioned in Ex.A-13
16	16.03.1995 (Ex.A-16)	Pattadar pass book for undivided ancestral property
17	22.06.1995 (Ex.A-17)	Ownership rights charter for the undivided ancestral property
18	20.07.1991 (Ex.A-18)	Licence issued by the General Manager, District Industries Center, Guntur
19	31.01.2011 (Ex.A-19)	CC of Judgment of the appellate Court
20	10.07.2007 (Ex.A-20)	CC of Judgment

21	10.07.2007 (Ex.A-21)	Judgment in O.S No.513 of 2006 on the file of II AJCJ, Guntur
22	01.11.2011 (Ex.A-22)	Disability Certificate issued by Medical Board
<u>X series:-</u>		
1	01.11.2011 (Ex.X-1)	CC of case sheet of the plaintiff

Oral evidence by the defendants:-

<u>Witnesses for the defendants:-</u>			
1	D.Subba Reddy	DW-1	1 st Defendant
2	Dr.B.S.Premkumar	DW-2	Doctor
3	BhavanamLaxma Reddy	DW-3	

Documentary evidence by the defendants:-

<u>For the defendants:-</u>		
1	(Ex.B-1)	Five photos with negatives
2	05.03.2007 (Ex.B-2)	CC of private complaint in CC No.1 of 2008
3	05.03.2010 (Ex.B-3)	CC of Judgment in CC No.1 of 2008 of PASJ, Guntur

4	09.06.2011 (Ex.B-4)	CC of Crl.Rev.R.C.No.2343 of 2001 in Crl.M.P No.360 of 2010 in C.C No.1 of 2008
5	20.07.2010 (Ex.B-5)	CC of Cr.R.C.No.214 of 2011 in SC No.125 of 2007
6	19.04.2006 (Ex.B-6 & Ex.B-7)	CC of Wound Certificates
7	26.06.2007 (Ex.B-8)	CC of notice issued to the complainant by the police

17. The Trial court, by clubbing all the 3 issues stated above, passed the Judgment and Decree dated 15.10.2015 by partly decreeing the suit, by granting total compensation of Rs.4,04,000/- with 9% interest per annum, from the date of suit till the date of deposit, in favour of the plaintiff and against the defendants. A period of two months was stipulated by the Trial Court for the defendants to deposit the compensation amount.

18. The plaintiff, being dissatisfied with not being granted the total compensation, filed A.S.No.1025 of 2016. Whereas, the defendants 1 & 2, challenging the compensation amount awarded in favour of the plaintiff, filed A.S.No.233 of 2016, before this Court, against the very same Judgment and Decree dated 14.10.2015 passed in O.S.No.68 of 2009 by

the Trial Court, the above two appeals emanated before this Court. For the sake of comprehensive view, coupled with the fact that common submissions were made by the respective counsels in both the appeals, we are herewith passing a common judgment in both the appeals.

Submissions of learned counsel for the appellant/plaintiff:

19. Learned counsel for the appellant/plaintiff submitted that the Trial court erred in not taking into consideration the Disability Certificate (Ex.A-22) issued by the District Medical Board after assessing the disability of plaintiff as 70%. In spite of the same, the Trial Court assessed the disability as 40%.

20. Learned counsel for the appellant urged that the trial Court had erred in assessing the plaintiff's income as being very low.

21. Learned counsel vehemently submitted that the Trial Court erred in not awarding adequate compensation towards Medical Bills, Marital prospects, Attendant charges and pain and suffering in favour of the plaintiff.

22. Finally, the learned counsel for the appellant/plaintiff contended that the Trial Court, having taken into consideration of peculiar facts and

circumstances involved in the lis, ought to have granted just and reasonable compensation in favour of the plaintiff.

Submissions of learned counsel for the defendants/respondents:-

23. Learned counsel for the defendants submitted that filing a civil suit seeking compensation on account of personal injuries is per se without jurisdiction and liable to be set aside since the plaintiff has already initiated criminal proceedings against the defendants in connection with the same incident. Therefore, the entire judgment and decree are liable to be set aside in *limine* without going into the merits of the case.

24. Learned counsel for the defendants contended that the Trial Court ought not to have awarded compensation, as the plaintiff and others are only aggressors who caused injuries to the defendants and they exercised their right of private defense only in the lis.

25. He further stated that the Trial Court granted excessive amounts under different heads in favour of the plaintiff.

Analysis:

26. Based on the above pleadings and contentions of respective counsels, the following points emerge for consideration in the instant appeals:-

- 1) Whether a civil suit for damages is maintainable despite the fact that the same plaintiff has already initiated the criminal proceedings relating to the same matter against the very same party?
- 2) Whether the defendants inflicted injuries on the plaintiff? (or) Whether the defendants sustained injuries at the hands of the plaintiff?
- 3) Whether the heads of compensation awarded by the Trial Court in favour of the plaintiff are liable to be enhanced or reduced?
- 4) What is the result of A.S. No.1025 of 2016 filed by the plaintiff?
- 5) What is the result of A.S. No.233 of 2016 instituted by the defendants?

Point No.1:-

27. The first point for consideration is whether the civil suit for damages is maintainable despite the plaintiff already having initiated the criminal proceedings relating to the same matter against the very same party.

28. It is apparent that the plaintiff initially set the criminal proceedings under Sections 307 and 326 R/w. 34 IPC against the defendants for the

injuries sustained by him at their instance. The said criminal proceedings culminated in full fledged criminal trial proceedings as S.C. No.125 of 2007 on the file of Asst. Sessions Judge, Guntur. The learned Trial Court after conducting a full-fledged trial, convicted the 1st defendant/accused No.1 therein for the offence under Section 326 I.P.C. and imposed three (03) years rigorous imprisonment and a fine of Rs.1000/- vide Judgment dated 20.07.2010. The said conviction was challenged by the 1st defendant in the Criminal Appeal No. 377 of 2010 on the file of VII Addl. Sessions Judge (FTC), Guntur and the same was dismissed vide Judgment dated 31.01.2011, which was marked as Ex.A.19.

29. It is apt to mention that the plaintiff, who is the victim in the said criminal proceedings, also filed O.S. 68 of 2009 before the II Addl. District Judge, Guntur, seeking compensation of Rs. 20,00,000/- with interest, in respect to the very same incident on the ground of tortious liability against the very same persons/defendants.

30. In this context, the learned counsel for the defendants asserted that the very civil suit itself is not maintainable, since the plaintiff had already initiated criminal proceedings with respect to the very same matter. *Per*

contra, the learned counsel for the plaintiff submitted that though the criminal proceedings have been initiated, there is no legal embargo for filing of civil suit to claim compensation under the tortious liability relating to the very same incident.

31. It is apt to note that the learned counsel for the defendants merely raised the plea of maintainability of the very institution of the civil suit, in the wake of criminal proceedings initiated by the plaintiff prior to it. To support his plea, the learned counsel has not placed any statutory provision as well as the procedural embargo.

32. In this scenario, we deem it appropriate to extract Section 357 of the Criminal Procedure Code, 1973 (as it is applicable at the relevant period), for ready reference:-

“357. Order to pay compensation.—

(1) When a Court imposes a sentence of fine or a sentence (including a sentence of death) of which fine forms a part, the Court may, when passing judgment, order the whole or any part of the fine recovered to be applied—

(a) in defraying the expenses properly incurred in the prosecution;

(b) in the payment to any person of compensation for any loss or injury caused by the offence, when compensation is, in the

opinion of the Court, recoverable by such person in a civil court;

(c) When any person is convicted of any offence for having caused the death of another person or of having abetted the commission of such an offence, in paying compensation to the persons who are, under the Fatal Accidents Act, 1855 (13 of 1855), entitled to recover damages from the person sentenced for the loss resulting to them from such death;

(d) when any person is convicted of any offence which includes theft, criminal misappropriation, criminal breach of trust, or cheating, or of having dishonestly received or retained, or of having voluntarily assisted in disposing of, stolen property knowing or having reason to believe the same to be stolen, in compensating any bona fide purchaser of such property for the loss of the same if such property is restored to the possession of the person entitled thereto.

(2) If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, before the decision of the appeal.

(3) When a Court imposes a sentence, of which fine does not form a part, the Court may, when passing judgment, order the accused person to pay, by way of compensation, such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced.

(4) An order under this section may also be made by an Appellate Court or by the High Court or Court of Session when exercising its powers of revision.

(5) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under this section.”

33. A plain reading of Section 357(3) Cr.P.C permits compensation to any person suffering loss or injury due to the action of the accused. Section 357(5) provides that any subsequent civil suit must consider the compensation already awarded under this Section. Together, these provisions empower the Court to determine the compensation, which the victims are entitled to against the accused in civil proceedings.

34. It is apt to note the Judgment in ***D.Purushotama Reddy & Anr. Vs. K. Sateesh***¹, wherein the Apex Court dealt with a core point, whether in a suit for recovery of money based on a cheque issued by the defendant but dishonoured, the amount received by the plaintiff (creditor) in criminal proceedings should be adjusted or not? In that scenario, the Apex Court categorically expressed that a suit for recovery of money due from a borrower is indisputably maintainable at the instance of the creditor and

¹ (2008) 8 Supreme Court Cases 505

also held that for the same cause of action, a complaint under Section 138 of the Negotiable Instruments Act., would also be maintainable.

35. The Apex Court further elaborated on whether the civil court is obligated to consider the amount of compensation awarded in terms of Section 357 Cr.P.C. In the said case, the Hon'ble Supreme Court by interpreting Section 357(i) Cr.P.C. and Section 357(5) Cr.P.C., held that civil courts are indeed duty bound to take into account the sum paid or recovered as compensation in terms of Section 357 Cr.P.C, while adjudicating the civil suit.

36. The Hon'ble Supreme Court further held that civil courts must take into account the sum paid or recovered as compensation in terms of Section 357 Cr.P.C. by the competent criminal Court. In other words, both criminal and civil proceedings are maintainable and to meet these situations, Parliament consciously devised Section 357 Cr.P.C. This provision ensures that the compensation awarded in criminal proceedings is duly considered in civil cases, thereby preventing double recovery and promoting fairness in the judicial process.

37. In the case of **Varghese Vs. Sasi & Ors²**, the High Court of Kerala had held as under:-

“.....12. Section 357 of the Cr. P.C. afore-mentioned provides that when a Criminal Court imposes a sentence of fine or a sentence of which fine forms a part, the Court may, when passing the judgment, order the whole or any part of the fine recovered to be applied towards expenses incurred for the prosecution; for payment to any person of compensation for any loss or injury caused by the offence, when the compensation is in the opinion of the Court recoverable by such person in a Civil Court.

13. What is clear from Section 357 afore-mentioned is that the Criminal Court also could allow compensation for injury caused to a victim even where compensation for such acts are recoverable by a victim through a Civil Court. A plain reading of the section shows that the powers of the two courts are concurrent and not mutually exclusive albeit while granting relief one would certainly take note of the relief granted by the counter part and ensure that double benefit or double burden does not result to the affected parties through the orders of the Civil and Criminal Courts. No provision of law is brought to my notice which excludes the jurisdiction of a Civil Court to proceed with a suit for damages even where Section 357 might be invoked by a Criminal Court.....”

² 2001 SCC OnLine Ker 27

38. In the light of above unequivocal language employed in Section 357 Cr.P.C., including the interpretation made by the Apex Court dictum in ***D.Purushotam Reddy & Anr*** (stated supra), we deem it appropriate to hold that, both the civil and criminal proceedings arising out of same matter is aptly maintainable. The real purport of Section 357(5) CrPC is that in the event of awarding damages by the civil Court, it must take into account of compensation granted by the criminal Court by virtue of above provision. Similarly, if the civil proceedings are disposed of prior to the conclusion of the criminal proceedings relating to the same matter, then it is the duty of the criminal court to take into account the decree passed by the civil court while exercising its powers vested under Section 357 Cr.P.C. Indeed, the real rationale behind this statutory framework is to avoid double benefit by both civil and criminal courts, which would only act as an adverse to the interest of the affected parties. In other words, the language enunciated in Section 357 of Cr.P.C., both criminal and civil proceedings are maintainable relating to the same matter. But at the time of awarding the compensation in any subsequent civil suit proceedings on the same matter, the concerned court shall take into account any amount paid or recovered towards compensation under Section 357 of Cr.P.C.

39. Reverting to the case on hand, a perusal of the judgment in Crl.A.No.377 of 2010 of VII Addl. Sessions Judge, Guntur, (Ex.A.19), clearly reveals that the Criminal Court has not awarded any compensation in favour of the plaintiff. Accordingly, there was no duty cast upon the Trial Court to apply Section 357(5) Cr.P.C., while passing the decree under challenge and we hereby answer point No.1 in favour of the plaintiff.

Point No 2:

40. Evidently, the plaintiff and the defendants are having civil disputes regarding the property. Even according to both parties, there was a scuffle that took place between them in the morning hours of 01.04.2006. Whereas, the version of the plaintiff is that the defendants attacked him with a knife and caused grievous injuries and in view of the injuries inflicted by the defendants, the plaintiff was shifted to People Trauma and Emergency Hospital, Guntur. Wherein, he was admitted on 01.04.2006, initially the plaintiff was treated in the Intensive Care Unit (I.C.U) and after undergoing multiple medical procedures for a period of 22 days as an inpatient, at last the plaintiff was discharged on 22.04.2006 from the Hospital. However, he was advised by the doctors to go for expert medical treatment. It is apt to

mention that, in view of injuries sustained at the hands of the defendants, the plaintiff lodged criminal proceedings against the defendants.

41. Whereas, the case set up by the defendants is that on 01.04.2006, there was an altercation between them and the plaintiff and others. Accordingly, the plaintiff and others were the only aggressors in the said incident. It is further case projected by the defendants that they exercised their right of private defense, in that process, only the defendants also received injuries. And they have also filed criminal proceedings against the plaintiff.

42. In the light of above divergent versions, we undertake to go through the material evidence on record.

43. The plaintiff while examining himself as P.W-1, had categorically stated in his evidence that, on 01.04.2006 morning hours, he along with his cousin brother questioned the high handed action of the defendants about their dismantling of the compound wall, the 1st defendant attacked him with a knife with an intention to kill him, caused serious bleeding injury on the left temporal region (in between left eye and left ear) due to which, plaintiff lost his consciousness. He was shifted to the hospital at Guntur for medical treatment.

44. The F.I.R dated 02.04.2006 in Crime No.39 of 2006 of Chebrole Police Station marked as Ex.A1. Statement of plaintiff recorded by the police dated 01.04.2006 marked as Ex.A-2, Admission Intimation dated 01.04.2006 from the Hospital authorities to the police marked as Ex.A-3. Wound Certificate dated 05.05.2006 marked as Ex.A-4, reveals that, on the intimation of the Hospital authorities, the police examined the plaintiff and registered the F.I.R dated 02.04.2006 in Crime No.39 of 2006 of Chebrole Police Station. The said Wound Certificate dated 01.04.2006 of the plaintiff, clearly reveals the nature of injuries in detail, including subarachnoid and intraventricular hemorrhage sustained by the plaintiff. Further, the Charge Sheet dated 01.04.2006 filed by the Chebrole Police Station in Crime No. 39/2006 against the defendants under Section 307, 326 I.P.C. R/w 34 IPC was marked as Ex.A-8. Subsequently, the learned Asst. Sessions Judge, Guntur, conducted the Criminal Trial in S.C. No.125 of 2007 and after a full-fledged trial, convicted the accused therein (defendant No.1 herein) *vide* Judgment dated 20.07.2010 U/s. 326 IPC., sentencing him to undergo rigorous imprisonment for a period of three (03) years and to pay a fine of Rs.1000/-, in default, to undergo simple imprisonment for three (03) months. Challenging the above said conviction Judgment, the defendant No.1/accused No.1 filed Criminal Appeal No.377/2010 before the VII Addl.

Sessions Judge (FTC), Guntur, and the same was also dismissed vide Judgment dated 31.01.2011, which was marked as Ex-A.19.

45. The plaintiff examined his brother as P.W-2, who deposed in his evidence about the existence of civil disputes between the plaintiff and defendants and also about the attack by defendant No.1 against the plaintiff with a knife, which inflicted injuries to the plaintiff. Further, P.W-2 also stated about the shifting of the plaintiff to the Hospital at Guntur and the treatment given to him by the doctors as an inpatient till 22.04.2006. P.W-2 also deposed about the expert medical treatment taken by the plaintiff in various hospitals in and around the State of Andhra Pradesh and also expenses incurred by the plaintiff in the process of taking expert medical treatment. In fact, the defendants in the cross-examination of P.W-2 did not demolish the case of the plaintiff.

46. The Doctor, who initially treated P.W-1 at Peoples Trauma and Emergency Hospital, Guntur, was examined as P.W-3. He clearly stated in his evidence about the admission of the plaintiff in the hospital on 01.04.2006 in the morning hours as an inpatient and also acknowledged the issuance of the Wound Certificate dated 26.10.2006 to the plaintiff (Ex.A-4). He also deposed about the CT Scan Report in respect of Injury No.1 i.e.,

subarachnoid and intraventricular hemorrhage. P.W-3 also stated about the hemiplegia (complete paralysis of one side) to the plaintiff. In the cross-examination of P.W-3, the defendants did not elicit anything that disbelieves the medical evidence of P.W-3. Further, Ex.A-4 (Wound Certificate) clearly reveals the multiple injuries sustained by the plaintiff.

47. Professor of Neurology, Guntur Medical College, who is also a Member of the District Medical Board, Guntur, was examined as P.W-4. In his evidence, he categorically confirmed about the issuance of Permanent Disability Certificate (Ex.A-22, dated: 01.11.2011) by assessing the disability of P.W-1 as 70%. He further stated that on his examination of P.W.1, he found hemiplegia on the right portion of the plaintiff's body including his face. In the cross-examination of P.W-4 nothing was contradicted, except putting the suggestion of excessive assessment of Permanent Disability as 70%.

48. So far as, P.W-5 (Neuro-Surgeon), who also treated P.W.1 at Peoples Trauma and Emergency Hospital, Guntur on 01.04.2006, deposed about conducting of M.R.I., C.T. Scan to P.W-1. In fact, P.W.5 noticed that even though there was an improvement, P.W-1 was still having weakness of right sided limbs and visual problem at the time of discharge on 22.04.2006. Further, P.W-5 advised P.W-1 for better treatment relating to the visual as

well as physiotherapy to his limbs. In the cross-examination of P.W-5, nothing was captured to disbelieve the Medical Evidence of P.W.5.

49. Coming to the case canvassed by the 1st defendant that he along with the 2nd defendant, filed O.S.No.513 of 2006 on the file of II Addl. Junior Civil Judge, Guntur., seeking permanent injunction against the plaintiff, wherein status quo order was granted by the Civil Court in his favour. According to the defendants' case contrary to the Civil Court Orders, the plaintiff raised the compound wall on 01.04.2006 in the morning hours. When the defendants questioned the same, the plaintiff and others attacked the defendants with weapons and caused injuries and the defendants were shifted to Government Hospital, Tenali and took treatment. Consequently, the police registered F.I.R. in Crime No.40/2006 U/s 324 R/w 34 IPC against the plaintiff and others.

50. Later, the Police referred the said criminal case as false, and a private complaint was filed against the plaintiff, wherein, trial took place. The learned Prl. Asst. Sessions Judge, Guntur, convicted the plaintiff vide Judgment dated 20.07.2010 in C.C.No.1/2018 for the offence U/s. 324 R/w. 34 of IPC by imposing rigorous imprisonment for a period of one (01) year. However in the Criminal Appeal No.364 of 2011

filed by the plaintiff, the said conviction Judgment was set aside. Challenging the above said acquittal of the plaintiff, the defendants filed Crl.R.C. No.2343 of 2011, before this Court and the same is pending.

51. It was admitted by D.W-1 himself that criminal proceedings were initiated by the plaintiff, wherein defendant No.1 was convicted U/s. 326 R/w. 34 IPC by the Trial Court in S.C.No.125 of 2007 and the same has been confirmed in the Criminal Appeal No.377 of 2010 by the VII Addl. Sessions Judge, (FTC), Guntur. Thereafter, the defendants challenged the same by way of Crl.R.C.No.214 of 2011 before this Court and the same is pending before the court.

52. The 1st defendant further deposed that they have no connection with the alleged injuries sustained by the plaintiff. If any bodily infirmities were found on the plaintiff, it might have been caused in ordinary circumstances only. Further evidence of the 1st defendant is that the plaintiff has no good character and reputation, due to that, he is not getting any marriage proposals. The 1st defendant denied the remaining assertions of the plaintiff in a casual manner, including taking treatment in the reputed hospitals in and around Andhra Pradesh.

53. The 1st defendant marked a copy of the private complaint in C.C.No.1 of 2008 filed by the defendants against the plaintiff as Ex.B-2. Judgment dated 05.03.2007 of the Prl. Asst. Sessions Judge, Guntur, was marked as Ex.B-3, Certified Copies of Memorandums in CrI.R.C.No.2343/2011 & CrI.R.C.No.214 of 2011 before this Court were marked as Ex.B-4 & Ex.B-5 respectively. C.C. of Wound Certificates were marked as Ex.B-6 & Ex.B-7.

54. It is relevant to note that defendant No.1 in his cross-examination categorically admitted that the Civil Suit O.S.No.513 of 2006 on the file II Addl. Junior Civil Judge Court, Guntur., was instituted by the 1st defendant against the plaintiff and others, seeking a permanent Injunction and the same has been dismissed on merits and it attained finality as he did not file any appeal against the dismissal of the said suit.

55. Further, the 1st defendant also admitted that the criminal case initiated by him against the plaintiff ended in acquittal by the Criminal Appellate Court. Whereas, the criminal case filed by the plaintiff against the 1st defendant was convicted by the Criminal Appellate Court. In other words, the case projected by the defendants against the plaintiff and others was negated by the competent appellate court, whereas the Criminal case filed by the plaintiff against the 1st defendant ended up in conviction.

56. Coming to the evidence of D.W-2, who treated the 1st defendant and issued the Wound Certificate (Ex.B-6), deposed that all the injuries are simple in nature. In the cross-examination of D.W-2, it is stated that, except for one injury other injuries can be possible by way of self inflicting.

57. D.W-3, who is the third party to the suit proceedings, stated that there were civil disputes between the defendants and the plaintiff and the 1st defendant received the Injuries from the plaintiff. However, by perceiving the overall evidence submitted by the defendants' side, the evidence of D.W-3 is not trustworthy.

58. The defendants raised a plea that the plaintiff by violating the status quo orders granted by the civil court, constructed the compound wall and when the same was questioned by them, at that juncture, the plaintiff attacked the defendants. Admittedly, the defendants had not filed any document relating to the above said civil court proceedings in the instant case. On the contrary, the plaintiff placed Ex.A-21 (C.C. of Judgment dated 10.07.2007 in O.S. No.513 of 2006 on the file of II Addl. Junior Civil Judge, Guntur), which is crystal clear that the suit for permanent injunction filed by the 1st defendant against the plaintiff was dismissed and the same attained finality.

59. Another aspect raised by the defendants is that the plaintiff and others are only aggressors. In fact, defendants, by projecting the very same reason, filed a criminal case against the plaintiff. But the said case has been dismissed by the Criminal Appellate Court. Conversely, the criminal case filed by the plaintiff against the 1st defendant was convicted. All these facts were admitted by the 1st defendant in his cross-examination.

60. From the oral as well as documentary evidence adduced by the respective parties in the *lis*, the plaintiff proved his case that the 1st defendant attacked him with a knife, caused serious bleeding injuries on account of civil disputes and subsequently, he was shifted to the Hospital at Guntur. A serious injury not only imposes permanent physical limitations and disabilities, but also causes physical and mental stigma to the injured. The Trial Court, upon a thorough evaluation of the evidence and after recording well-reasoned findings, concluded that the defendants had caused injuries to the plaintiff., based on the evidence of P.W.1 and P.W.2. From the above discussion of evidence on record, we are of the opinion that the defendants inflicted injuries on the plaintiff. Accordingly, point No.2 is held in favour of the plaintiff and against the defendants.

Point No.3:-

61. In order to examine the damages claimed by the plaintiff and assess his entitlement, we shall now proceed to examine the following heads.

A. Injuries & Disability sustained by the plaintiff:

62. Before venturing into the appreciation of evidence, it is apt to note the well settled legal principles of the Apex Court held in ***Raj Kumar Vs. Ajay Kumar***³, wherein the Hon'ble Supreme Court of India, after perceiving the socio-economic and ground realities more particularly relating to the disability assessment., clearly laid down the following principles:-

“.....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 1992(2) SCC 567 2011 (1) SCC 343 percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that percentage of loss of earning capacity is the same as percentage of permanent disability).

³ 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 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.....”

63. It is also pertinent to note that the Apex Court in ***Sidram Vs. United India Insurance Company Ltd⁴***, while referring to ***Raj Kumar Case*** stated supra, elaborated the principles in respect of Injury cases and assessment of future loss of earnings consequent to the permanent disability.

64. It is the specific evidence of the plaintiff (P.W.1) that the 1st defendant, in order to kill, stabbed the plaintiff with a knife and caused injuries on the left temporal region (in between the left eye and left ear). Subsequently, he was shifted to People's Trauma and Emergency Hospital, Guntur, on 01.04.2006, wherein he was treated as an inpatient from 01.04.2006 to 22.04.2006 (22 days) and he has undergone several medical procedures for his injuries. P.W.2, who is the eye-witness of the incident, also substantiates the above version. P.W.3 (Doctor), who treated the plaintiff (P.W.1) on

⁴ 2023 (3) SCC 439

01.04.2006 at the time of admission into the hospital at Guntur, issued Ex.A-4 Wound Certificate mentioning the following injuries:

- a) A lacerated wound just below the Left Temporal Region in size 4 x 3 cm.
- b) A cut injury over medial aspect of 2nd finger of left foot of size 2 x 3 cms.
- c) A scratch mark over dorsal aspect of the right foot in size 4 cms.
- d) A scratch mark over skin of the right leg.

65. It is apparent that P.W-3 also deposed that P.W-1 found hemiplegia (complete paralysis of one side) of the body, which led to weakness of the limbs. P.W-4, who is the Professor of Neurology, Guntur Medical College, and also member of District Medical Board, Guntur, confirmed about issuance of Permanent Disability Certificate (Ex.A22) issued by the District Medical Board, Guntur, in favour of P.W.1, assessing his permanent disability as 70%. P.W-5, who treated P.W-1, clearly deposed that C.T. Scan and M.R.I. tests were performed against P.W-1, and they also noticed the weakness in the right side upper & lower limbs and a visual problem, advised P.W-1 to continue the treatment for his limbs along with physiotherapy and visual problem. P.W-5 also stated that P.W-1 cannot attend manual labour work. Plaintiff (P.W-1), on medical advice, has taken expert medical treatment at multiple hospitals. To substantiate the same the relevant

medical records were exhibited as Ex.A-9 (Medical records of different hospitals), Ex.A-10 (Medical Bills No.23 for Rs.37,307.50) and also Ex.X-1(C.C. of case sheet) of P.W-1., which minutely detailed about the treatment received by P.W-1.

66. Disability Certificate (Ex.A-22) issued by the District Medical Board, Guntur, assessed the disability of P.W-1 as more than 70% as he is suffering with right hemiplegia. However, the Trial Court relying on Ex.B-1 (Five Photos with negatives), found that P.W-1 had climbed the upstairs of the down floor to attend the water works on the roof and on that basis, the Trial Court assessed the disability of P.W.1 at 40%. With all respect, in our considered opinion, the above said reasoning of the Trial Court in scaling down the percentage of the disability, mainly on the basis of Ex.B-1 (5 photographs), is not sound as it is not supported by any scientific yardstick.

67. Having regard to the above well-settled legal principles and considering the age of P.W-1 as 32 years, who was doing agricultural work, as taken by the Trial Court, coupled with categorical evidence of P.W-3, P.W-4 & P.W-5, who treated P.W-1 as an inpatient about 22 days i.e., from 01.04.2006 to 22.04.2006 and also the expert medical treatment received by

P.W-1 in and around Andhra Pradesh, more particularly, the specific evidence given by P.W-5 (Neuro-Surgeon) that P.W-1 cannot attend manual labour work., we deem it appropriate to assess the functional disability of P.W-1 at 50%, instead of 40% as determined by the Trial court.

B. Income of the plaintiff:-

68. Apropos to the income of P.W-1, though he claimed as if he is owning agricultural lands to an extent of Ac.6.25 cents, but Ex.A-14 and Ex.A-15 (Pattadar Pass Books and Title deeds of P.W-1) discloses an extent of land Ac.1.25 cents only. So far as Ex.A-16 and Ex.A-17 (Pattadar Pass Book and revenue document), stand in the name of the father of P.W-1 only. In fact, P.W-1 also stated that he is running a rice mill and also doing sericulture. Apparently, P.W-1 has not filed any cogent evidence to substantiate his income and Ex.A-18 (Licensee issued by the General Manager, District Industries Center, Guntur) does not reveal the name of P.W-1.

69. Therefore, under the above categorical evidence, the trial Court, after taking into consideration all the aspects, aptly assessed the income of P.W-1 as Rs.60,000/- per annum. We do not find any illegality in determining the income of P.W-1 as Rs.60,000/- per annum.

70. There is no doubt that injuries cause deprivation to the body, resulting in losses that entitle the injured party to claim damages. The Court has to make a judicious attempt to award damages to compensate the injured for the loss suffered. While adjudicating a suit for damages in a civil appellate jurisdiction, the compensation should not be assessed conservatively, nor should it be evaluated liberally, so as to, make it a bounty for the injured.

71. In the instant case on hand, the Trial Court, after perceiving the totality of facts and circumstances as well as voluminous documentary evidence placed on record by following the dictum of the Apex Court ruling held in ***Sarla Verma Vs. Delhi Transport Co.***⁵, adopted the multiplier method, which is logically sound and legally well-established in awarding the compensation. In fact, the dictum laid down in ***Sarla Verma*** was upheld by the Constitutional Bench Judgment in ***National Insurance Company Ltd. Vs. Pranay Sethi & Ors***⁶ and was vividly referred to in ***Pappu Deo Yadav Vs. Naresh Kumar***⁷, as also in the recent decision in ***Atul Tiwari Vs. Regional Manager Oriental Insurance Co. Ltd.***⁸.

⁵ 2009(6) SCC 121

⁶ 2017(16) SCC 680

⁷ AIR (2020) SC 4424

⁸ (2025) 2 SCC 6

72. A departure from the multiplier method, which is the scientific criterion for assessing compensation, can be justified only in extraordinary circumstances and in very exceptional cases. In the present case, the defendants have not made out any such exceptional circumstances warranting deviation, and we find no reason to interfere with the multiplier method adopted by the Trial Court in determining the compensation. Therefore, taking into account the age of P.W-1 as 32 years and his annual income as Rs.60,000/- (Rs.5,000 x 12), the relevant multiplier would be '16', with functional disability assessed at 50%. The total compensation towards the head of loss of income due to disability amounts to Rs.4,80,000/-.

C. Medical Bills:

73. Learned counsel for the plaintiff placed reliance on ***Kajal Vs. Jagdish Chand and Others***⁹, wherein the Court, after taking note of the ground reality, held that limiting the amount only to the bills that have been paid in the name of the claimant would not be reasonable and also cited the Judgment of ***Benson George Vs. Reliance General Insurance Company Limited and Another***¹⁰, wherein the Apex Court held that, to award the

⁹ (2020) 4 SCC 143

¹⁰(2022) 13 SCC

compensation under the heads of pain, suffering, loss of amenities and happiness, there cannot be a straitjacket formula and further observed that multiple factors are required to be taken into consideration, such as prolonged hospitalization, grievous injuries sustained, operations undergone and consequent pain, discomfort and suffering.

74. Insofar as medical bills are concerned, it is apparent from the evidence of P.Ws.1 to 5, who clearly deposed about the medical treatment administered to P.W.1. Ex.A.9 consists of medical records from reputed hospitals (22 in number) such as Nizam's Institute of Medical Sciences, Hyderabad, Krishna Institute of Medical Sciences Ltd., Hyderabad, Kottakkal Arya Vaidyasala and various reputed institutions for advanced treatment. In the course of such treatment, P.W.1 was inevitably compelled to incur reasonable expenses. Ex.A.10 (Medical Bills Nos.23 totaling Rs.37,307.50 p.s.) also reveals the medical treatment taken by P.W.1. Considering the nature of injuries sustained by P.W.1, medication is necessary and restricting the compensation to the total bill amount alone would not be justified. Therefore, relying on the decision of the Apex Court in the **Kajal** case referred to supra, we deem it appropriate to grant a total sum of Rs.1,00,000/- towards transportation to various out stationed hospitals,

hospitalization, and other incidental expenses, including the total bill amount of Rs.37,307.50 p.s. (Ex.A.10).

D. Pain and suffering:

75. In respect of pain and suffering head, the Apex Court elaborately discussed in its contours in the case of ***K.S.Muralidhar Vs. Subbulakshmi***¹¹. In the instant case, in view of serious injuries sustained by P.W-1 and the prolonged treatment received at multiple hospitals., it is just and reasonable to grant Rs.50,000/- instead of Rs.10,000/- as granted by the trial Court.

E. Attendant Charges:

76. In view of the nature of the injuries and the specific evidence given by P.Ws. 1 to 5, coupled with the fact that P.W.1 underwent prolonged chronic medical treatment at multiple hospitals across different locations and periods and taking note of the categorical evidence given by P.W.1 that he could not travel without the aid of an attendant, whom he engaged at a monthly salary of Rs. 3,000/-., we deem it proper to grant Rs.75,000/- towards attendant charges.

¹¹ (2024) SCC OnLine SC 3385

F. Marital Prospects:

77. P.W.1, aged 32 years, who is unmarried, claims that as a result of injuries caused to him by the defendants, he is suffering from permanent disability. P.W.1 has suffered hemiplegia (Hemiplegia implies paralysis of one side of the body) on the right portion of his body, including his face and visual problem, which is evident from Ex.A.9, Ex.A.10, A.22 (Disability Certificate issued by the District Medical Board) and Ex.X.1. These disabilities have greatly affected the marital prospects of P.W.1. According to the facts, P.W-1 remained unmarried and the marriage or companionship is an integral part of natural human life, however, the Trial Court did not grant any compensation towards the potentiality of marriage. Therefore, in our opinion, P.W-1 is entitled to a sum of Rs.1,50,000/- towards marital prospects, as supported by various judgments, including the recent decision of the Hon'ble Supreme Court in ***Baby Sakshi Greola Vs. Manzoor Ahmad Simon & Anr.***¹².

D. Interest:-

78. The Trial Court granted interest at the rate of 9% per annum on the awarded amount from the date of suit, i.e., 31.03.2009, till the date of deposit,

¹² 2024 SCC OnLine SC 3692

which is justifiable. In ***Rahul Sharma & Anr. Vs National Insurance Company Limited and Others***¹³ and also in ***Anjali & others Vs. Lokendra Rathod & others***¹⁴, the Hon'ble Supreme Court awarded interest @ 9% per annum.

79. In view of the aforesaid, the decree of the Trial Court is revised. Accordingly, point No.3 is answered in favour of the plaintiff and against the defendants. The plaintiff is entitled to enhanced compensation as indicated in the tabular statement below:-

Sl. No.	Nature of claim	Compensation awarded by the Trial Court (Rupees)	Compensation awarded in the appeal (Rupees)
1.	Loss of income due to disability	3,84,000	$60,000 \times 16 \times 50 / 100 = 4,80,000$
2.	Medical bills expenses	10,000	1,00,000
3.	Pain and suffering	10,000	50,000
4.	Attendant charges	nil	75,000
5.	Marital prospects	nil	1,50,000
Total		4,04,000	8,55,000

¹³ 2021 (6) SCC 188

¹⁴ (2022) SCC OnLine SC 1683

Point Nos.4 & 5:

80. Resultantly, A.S.No.1025 of 2016 filed by the plaintiff is partly allowed to the extent of enhancing the compensation from Rs.4,04,000/- to Rs.8,55,000/-, which shall carry interest at 9% per annum, from the date of suit i.e., 31.03.2009, till the date of realization and the plaintiff is entitled to future interest at 6% per annum on the said sum. Consequently, A.S.No.233 of 2016 filed by the defendants is dismissed.

No order as to costs. Miscellaneous applications, if any, pending in these appeals, shall stand closed.

RAVI NATH TILHARI, J

MAHESWARA RAO KUNCHEAM, J**Dated. 11.09.2025**

RNS/GVK

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THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
and
THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

APPEAL SUIT Nos.1025 and 233 of 2016

Dated 11.09.2025

GVK