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APHC010566142015



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

[3520]

THURSDAY, THE EIGHTH DAY OF JANUARY
TWO THOUSAND AND TWENTY SIX

PRESENT**THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA****MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 1355/2015****Between:**

1. ANDHRA PRADESH STATE ROAD TRANSPORT CORPORATION,
REP BY ITS VICE CHARIMAN & MANAGING DIRECTOR, OWNER OF
APSRTC BUS BEARING NO. AP 11Z 262 OF NARSAPUR DEPOT,
MUSHEERABAD, HYDERABAD JCJC.

...APPELLANT**AND**

1. AKANA VENKATESWARA RAO 3 OTHERS, (DIED)
2. AKANA SRI LAKSHMI, D/O VENKATESWARA RAO, DEPENDANT,
R/O D.NO. 10-119, AKANAVARI THOTA, H/O RAMANNAPALEM
VILLAGE, MOGALTURU MANDAL, WEST GODAVARI DISTRICT
3. AKANA SAI GANESH, S/O VENKATESWARA RAO, DEPENDANT, R/O
D.NO. 10-119, AKANAVARI THOTA, H/O RAMANNAPALEM VILLAGE,
MOGALTURU MANDAL, WEST GODAVARI DISTRICT. REP BY HIS
GUARDIAN SMT.K.SATYAVATHI.
4. NEDUNURI NAGESWARA RAO, S/O VENKATA RAO, DRIVER OF
APSRTC BUS BEARING NO AP 11 Z 262 OF NARSAPUR DEPOT,
WEST GODAVARI DISTRICT

...RESPONDENT(S):

Appeal filed under Order 41 of CPC praying that the Highcourt may be pleased to set aside the judgment and decree dated 25/4/2012 made in MVOP.No.978 of 2009 on the file of the Motor Accidents Claims Tribunal- Cum-VI Addl.District Judge, Fast Track Court, Narsapur by allowing this appeal and pass

IA NO: 1 OF 2013(MACMAMP 3084 OF 2013)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased To condone the delay of 168 days in presenting the appeal against OP.No.978 of 2009, dated 25/4/2012 on the file of the Motor Accidents Claims Tribunal- Cum-VI Addl.District Judge, Fast Track Court, Narsapur and pass

IA NO: 2 OF 2013(MACMAMP 3228 OF 2013)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of Decree and Judgement dated 25-4-2012 in MVOP No. 978/2009 on the file of Motor Accident Claims Tribunal-Cum-VI Additional District Judge, Fast Track Court, Narsapur Pending disposal of the above appeal and pass

IA NO: 1 OF 2016(MACMAMP 19258 OF 2016)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased

IA NO: 1 OF 2021

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to with draw the 50% deposited amount orders passed in M.A.C.M.A.M.P.No.3228 of 2013 in MACMA No. 1355 of 2015, dt.28-06-2013, and pass such other order

Counsel for the Appellant:

1. VINOD KUMAR TARLADA (SC FOR APSRTC)

Counsel for the Respondent(S):

1.ELURU SESA MAHESH BABU

2.S V RAMANA

The Court made the following:

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA**M.A.C.M.A.No.1355 of 2015****JUDGMENT:**

1. Respondent No.2 (A.P.S.R.T.C) in M.V.O.P.No.978 of 2009, feeling aggrieved by the order and decree dated 25.04.2012 passed therein by the Chairman, Motor Vehicle Accident Claims Tribunal-cum-VI Additional District Judge, Fast Track Court, Narsapur (for short “the learned MACT”), filed the present appeal disputing the liability and quantum of compensation ordered.

2. Respondent Nos.1 to 3 herein are the claimants. Respondent No.4 herein is the driver of the A.P.S.R.T.C. bus bearing No.AP 11 Z 262 (hereinafter referred to as “the offending vehicle”) owned by the appellant and he is the proforma party in this appeal. He remained *ex parte* before the learned MACT.

3. For the sake of convenience, the parties are hereinafter referred to as the petitioners and the respondents, as and how they are arrayed in the proceedings before the learned MACT.

Case of the claimants:

4. One Akana Devi (hereinafter referred to as “the deceased”) is the wife of claimant No.1 and mother of claimant Nos.2 and 3. She was aged about 34 years, hale and healthy, attending tailoring and lace work. She boarded the offending vehicle on 07.07.2009 for travelling to Narsapur. When the bus /

offending vehicle reached near Thomas Bridge, Mogalturu road, Narsapur, the bus was stopped and while the passengers including the deceased were getting down from the bus, the driver of the bus moved it in a rash and negligent manner without noting the nod of the conductor. As a result, the deceased fell down, sustained severe head injury and succumbed to the injuries while undergoing treatment at the hospital on the same day.

5. A case in Crime No.137 of 2009 was registered for the offences under Section 304-A IPC and the driver of the offending vehicle was charge sheeted. Claimant No.1 died; Claimant Nos.2 and 3, being the sole legal heirs and dependents, are entitled for compensation. The deceased was earning Rs.4,500/- per month by attending Tailoring and lace works and was contributing her entire income to the family. Claimant Nos.2 and 3, being unemployed in view of their age, were dependent on the deceased.

Case of respondent No.2 / A.P.S.R.T.C:

6. The petitioners shall prove the age, occupation, income of the deceased and dependency of the claimants. There was no negligence on the part of the driver of the bus / offending vehicle. The deceased got down from the bus without the knowledge of the conductor and the driver of the bus. There was negligence, if any is on the part of the deceased. Therefore, the claimants are not entitled for any compensation.

Findings of the learned MACT:

7. The evidence of eye witness P.W.2, one Nalli Yesubabu, coupled with the crime record covered by FIR and charge sheet, establishes the negligence and there is no rebuttal evidence from the RTC. Therefore, the accident, negligence of the driver of the offending vehicle and death of the deceased due to the accident are proved.

8. With regard to quantum of compensation, the learned MACT adopted the income at Rs.100/- per day, i.e.Rs.36,000/- per annum and deducted 1/3rd towards personal expenditure of the deceased. The multiplier applicable is '16'. Rs.10,000/- added towards loss of estate and Rs.5,000/- towards funeral expenditure. A compensation of Rs.3,99,000/- was awarded in all, as against the claim made for Rs.5,00,000/-.

Arguments in the appeal:**For appellant/ A.P.S.R.T.C:**

9(i). Negligence of the deceased in getting down from the bus is ignored by the learned MACT.

(ii). The income of the deceased is taken on high side.

(iii). The multiplier applied is not correct.

(iv). Interest at 9% is excessive.

For the claimants / respondents:

10(i). The compensation awarded requires enhancement.

(ii). Future prospects are not added.

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

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

- 1) Whether the occurrence of accident due to negligence of the driver of the offending vehicle and death of the deceased due to the accident, entitlement for claimants for compensation, as well as the liability of the respondent (appellant) / A.P.S.R.T.C is properly proved and appreciated by the learned MACT?
- 2) Whether the compensation of Rs.3,99,000/- awarded by the learned MACT require any modification and, if so, to what extent?
- 3) What is the result of the appeal?

Point No.1:

Negligence:

13(i). The driver of the offending vehicle remained *ex parte*.

(ii). No evidence is adduced on behalf of the respondent / APSRTC.

(iii). FIR, charge sheet and MVI report indicate the accident.

(iv). The post-mortem report is indicating the death of deceased due to the accident

(v). Ex.A5 family members certificate is indicating the relationship of the claimants with the deceased.

14(i). Evidence of P.W.2, the eye witness to the accident, is clear that while the deceased was stepping down from the bus, the driver moved the bus in a rash and negligent manner without observing the same.

(ii). During cross-examination, he has denied the suggestion as to negligence of the deceased.

(iii). P.W.2 stated that he gave the report to the Police.

(iv). P.W.2 is arrayed as L.W.1 in the charge sheet and he is the informant under Ex.A1-FIR.

(v). The evidence of P.W.2, coupled with the entries in Ex.A1-FIR and Ex.A4 charge sheet clearly shows negligence.

Statutory and Precedential Guidance:

Statutory Guidance:

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

(ii). In relation to claims before the learned MACT, Rule 455 to Rule 476 of the A.P. Motor Vehicles Rules, 1989, vide Chapter No.11 provides comprehensive guidance. As per Rule 476 of the A.P. Motor Vehicles Rules, 1989, the claims Tribunal shall proceed to award the claim basing on the registration certificate of the vehicle, insurance policy, copy of FIR and Post-mortem certificate etc.

Precedential Guidance:

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

“15. In a situation of this nature, the Tribunal has rightly taken a holistic view of the matter. It was necessary to be borne in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied. For the said purpose, the High Court should have taken into consideration the respective stories set forth by both the parties..”

17. In view of the above discussion, this Court finds that the negligence of the driver of the RTC bus / offending vehicle is shown and the learned MACT has properly appreciated the same. Therefore, the accountability of Respondent Nos.1 and 2 is properly appreciated by the learned MACT. Further, in view of the relationship of the petitioners with the deceased, their entitlement for compensation is also clear. Accordingly, point No.1 is answered.

Point No.2:**Precedential guidance:**

18(i). For having uniformity of practice and consistency in awarding just compensation, the Hon'ble Apex Court provided guidelines as to adoption of

¹ 2009 (13) SCC 530

multiplier depending on the age of the deceased in **Sarla Verma (Smt.) and Ors. Vs. Delhi Transport Corporation and Anr.**² and also the method of calculation as to ascertaining multiplicand, applying multiplier and calculating the compensation *vide* paragraph Nos.18 and 19 of the Judgment.

(ii). Further the Hon'ble Apex Court in **National Insurance Company Ltd. v. Pranay Sethi and Others**³ case directed for adding future prospects at 50% in respect of permanent employment where the deceased is below 40 years, 30% where deceased is between 40-50 years and 15% where the deceased is between 50-60 years. Further, in respect of self employed etc., recommended addition of income at 40% for the deceased below 40 years, at 25% where the deceased is between 40-50 years and at 10% where the deceased is between 50-60 years. Further, awarding compensation under conventional heads like loss of estate, loss of consortium and funeral expenditure at Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively is also provided in the same Judgment.

(iii). Further in **Magma General Insurance Company Ltd. v. Nanu Ram and Others**⁴, the Hon'ble Apex Court observed that the compensation under the head of loss of consortium can be awarded not only to the spouse but also to

² 2009 (6) SCC 121

³ 2017(16) SCC 680

⁴ (2018) 18 SCC 130

the children and parents of the deceased under the heads of parental consortium and filial consortium.

Just Compensation:

19. In ***Rajesh and others vs. Rajbir Singh and others***⁵, the Hon'ble Supreme Court in para Nos.10 and 11 made relevant observations, they are as follows:

10. Whether the Tribunal is competent to award compensation in excess of what is claimed in the application under Section 166 of the Motor Vehicles Act, 1988, is another issue arising for consideration in this case. At para 10 of Nagappa case [Nagappa v. Gurudayal Singh, (2003) 2 SCC 274 : 2003 SCC (Cri) 523 : AIR 2003 SC 674] , it was held as follows: (SCC p. 280)

“10. Thereafter, Section 168 empowers the Claims Tribunal to ‘make an award determining the amount of compensation which appears to it to be just’. Therefore, the only requirement for determining the compensation is that it must be ‘just’. There is no other limitation or restriction on its power for awarding just compensation.”

The principle was followed in the later decisions in Oriental Insurance Co. Ltd. v. Mohd. Nasir [(2009) 6 SCC 280 : (2009) 2 SCC (Civ) 877 : (2009) 2 SCC (Cri) 987] and in Ningamma v. United India Insurance Co. Ltd. [(2009) 13 SCC 710 : (2009) 5 SCC (Civ) 241 : (2010) 1 SCC (Cri) 1213]

11. Underlying principle discussed in the above decisions is with regard to the duty of the court to fix a just compensation and it has now become settled law that the court should not succumb to niceties or technicalities, in such matters. Attempt of the court should be to

⁵ (2013) 9 SCC 54

equate, as far as possible, the misery on account of the accident with the compensation so that the injured/the dependants should not face the vagaries of life on account of the discontinuance of the income earned by the victim.

20. As per the post mortem certificate, age of the deceased is 34 years. The deceased said to have been attending tailor work. Although the earnings are claimed at Rs.5,000/- per month, the learned MACT has taken the income at Rs.3,000/- per month at the rate of Rs.100/- per day.

21. The learned MACT did not add future prospects. For the age group of 30-40 years, the addition of future prospects can be around 1/3rd, in view of the self-employment of the deceased, whereby the income of the deceased can be taken at Rs.4,000/- per month, which comes to Rs.48,000/- per annum. 1/3rd of the same is deducted towards personal expenditure, then the contribution of the deceased to the petitioners / claimants comes to Rs.32,000/- per annum, which can be considered as multiplicand. For the age group of 30-35 years, the multiplier applicable is '16' as per the *Sarla Verma* case. When the same is applied, the entitlement for claimants for compensation under the head of loss of dependency comes to Rs.5,12,000/-(Rs.32,000/- x 16).

22. Further, the claimants are entitled for compensation under the conventional heads i.e. Rs.40,000/- each to claimant Nos.2 and 3 towards parental consortium, Rs.15,000/- towards funeral expenditure and Rs.15,000/-

towards loss of estate. In all the entitlement of claimants comes to Rs.6,22,000/-

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

Head		Compensation awarded by the learned MACT	Fixed by this Court
(i)	Loss of dependency	Rs.3,84,000/-	Rs.5,12,000/-
(ii)	Loss of estate	Rs.10,000/-	Rs.15,000/-
(iii)	Loss of Consortium	-Nil-	Rs.80,000/- Parental consortium @ Rs.40,000/- to claimant No.2 and 3
(iv)	Funeral expenses	Rs.5,000/-	Rs.15,000/-
	Total compensation awarded	Rs.3,99,000/-	Rs.6,22,000/-
	Interest (per annum)	9%	6% In view of the long lapse of time

24. For the reasons aforesaid and in view of the discussion made above, the point framed is answered concluding that the claimants are entitled for compensation of Rs.6,22,000/- with interest at the rate of 6% per annum from the date of petition till the date of realization and the order and decree dated 25.04.2012 passed by the learned MACT in M.V.O.P.No.978 of 2009 require modification accordingly.

Granting of more compensation than what claimed, if the claimants are otherwise entitled:-

25. The legal position with regard to awarding more compensation than what claimed has been considered and settled by the Hon'ble Supreme Court holding that there is no bar for awarding more compensation than what is claimed. For the said preposition of law, this Court finds it proper to refer the following observations of the Hon'ble Supreme Court made in:

(1) **Nagappa Vs. Gurudayal Singh and Others**⁶, at para 21 of the judgment, that –

“..there is no restriction that the Tribunal/Court cannot award compensation amount exceeding the claimed amount. The function of the Tribunal/Court is to award “just” compensation, which is reasonable on the basis of evidence produced on record.”

(2) **Kajal Vs. Jagadish Chand and Ors.**⁷ at para 33 of the judgment, as follows:-

“33. We are aware that the amount awarded by us is more than the amount claimed. However, it is well settled law that in the motor accident claim petitions, the Court must award the just compensation and, in case, the just compensation is more than the amount claimed, that must be awarded especially where the claimant is a minor.”

(3) **Ramla and Others Vs. National Insurance Company Limited and Others**⁸ at para 5 of the judgment, as follows:-

⁶ (2003) 2 SCC 274

⁷ 2020 (04) SCC 413

⁸ (2019) 2 SCC 192

“5. Though the claimants had claimed a total compensation of Rs 25,00,000 in their claim petition filed before the Tribunal, we feel that the compensation which the claimants are entitled to is higher than the same as mentioned supra. There is no restriction that the Court cannot award compensation exceeding the claimed amount, since the function of the Tribunal or Court under Section 168 of the Motor Vehicles Act, 1988 is to award “just compensation”. The Motor Vehicles Act is a beneficial and welfare legislation. A “just compensation” is one which is reasonable on the basis of evidence produced on record. It cannot be said to have become time-barred. Further, there is no need for a new cause of action to claim an enhanced amount. The courts are duty-bound to award just compensation.”

26. Awarding more compensation than what claimed and awarding compensation to the claimants even in the absence of any appeal or cross objections by the claimants require examination.

Enhancement of compensation in the absence of appeal by the claimants:

27(i). Whether the compensation can be enhanced in the absence of an appeal or cross appeal by the claimant. The legal position as to powers of the Appellate Court particularly while dealing with an appeal in terms of Section 173 of the Motor Vehicles Act, 1988, where the award passed by the learned MACT under challenge at the instance of the Insurance Company (Respondents) and bar or prohibition if any to enhance the quantum of compensation and awarding just and reasonable compensation, even in the absence of any appeal or cross objections was considered by the Division Bench of this Court in a case between ***National Insurance Company Limited***

vs. E. Suseelamma and others⁹ in M.A.C.M.A. No.945 of 2013, while answering point No.3 framed therein vide, para 50 of the judgment, which reads as follows:

50. In our considered view, the claimant/respondents are entitled for just compensation and if on the face of the award or even in the light of the evidence on record, and keeping in view the settled legal position regarding the claimants being entitled to just compensation and it also being the statutory duty of the Court/Tribunal to award just compensation, this Court in the exercise of the appellate powers can enhance the amount of compensation even in the absence of appeal or cross-objection by the claimants.

(ii). Observations made by the Division Bench of this Court in **National Insurance Company Limited vs. E. Suseelamma and others** (9 supra) case are in compliance with the observations of Hon'ble Apex Court in **Surekha and Others vs. Santosh and Others**¹⁰.

(iii). In **Surekha and Others vs. Santosh and Others** (10 supra) case, in Civil Appeal No.476 of 2020 vide judgment dated 21.01.2020, three judges of the Hon'ble Supreme Court observed that "it is well stated that in the matter of Insurance claim compensation in reference to the motor accident, the Court should not take hyper technical approach and ensure that just compensation is awarded to the affected person or the claimants". While addressing a case where the High Court has declined to grant enhancement on the ground that the claimants fail to file cross appeal above observations are made.

⁹ 2023 SCC Online AP 1725

¹⁰ (2021) 16 SCC 467

Point No.3:

28. In the result, the appeal is allowed as follows:

- (i) Compensation awarded by the learned MACT in M.V.O.P.No.978 of 2009 at Rs.3,99,000/- with interest at the rate of 9% per annum is modified and enhanced to Rs.6,22,000/- with interest at the rate of 6% per annum from the date of petition till the date of realization.
- (ii) Claimants are liable to pay the Court fee for the enhanced part of the compensation, before the learned MACT.
- (iii) **Apportionment:**
 - (a) Claimant No.2 / daughter of the deceased is entitled to Rs.3,11,000/- with proportionate interests and costs.
 - (b) Claimant Nos.3 / son of the deceased is entitled to Rs.3,11,000/- with proportionate interest and costs.
- (iv) Respondent No.2 before the learned MACT / A.P.S.R.T.C (appellant herein) is liable to pay the compensation.
- (v) Time for payment /deposit of balance amount is two months.
 - (a) If the claimants furnish the bank account number within 15 days from today, the respondent / A.P.S.R.T.C. shall deposit the amount directly into the bank account of the claimants and file the necessary proof before the learned MACT.
 - (b) If the claimants fail to comply v(a) above, the respondent / A.P.S.R.T.C. shall deposit the amount before the learned MACT

and the claimants are entitled to withdraw the amount at once on deposit.

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

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

A. HARI HARANADHA SARMA, J

Date:08.01.2026

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HON'BLE SRI JUSTICE A. HARI HARANADHA SARMA

M.A.C.M.A No.1355 of 2015

8th January, 2026

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