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APHC010516372013



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

[3520]

FRIDAY, THE NINETEENTH DAY OF JUNE
 TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 200/2013

Between:

- 1.THE AP STATE ROAD TRANSPORT CORPORATION & ANR, AP STATE ROAD TRANSPORT CORPORATION O/O.MUSHEERABAD, HYDERABAD.
- 2.REGIONAL MANAGER, AP STATE ROAD TRANSPORT CORPORATION O/O.ONGOLE, PRAKASAM.

...APPELLANT(S)

AND

- 1.KONKALA VENKATAMMA 4 ORS, W/O.PEDA KONDA REDDY R/O.PURIMETLA [V], MUNDLAMUR [M], PRAKASAM DISTRICT.
- 2.KONKALA SIVA REDDY, S/O.PEDA KONDA REDDY R/O.PURIMETLA [V], MUNDLAMUR [M], PRAKASAM DISTRICT.
- 3.KONKALA PUJITHA, D/O.PEDA KONDA REDDY R/O.PURIMETLA [V], MUNDLAMUR [M], PRAKASAM DISTRICT.
- 4.KONKALA RADHA, D/O.PEDA KONDA REDDY R/O.PURIMETLA [V], MUNDLAMUR [M], PRAKASAM DISTRICT.
- 5.KONKALA VENKATESHWARA REDDY, S/O.KOTI REDDY

R/O.PURIMETLA [V], MUNDLAMUR [M], PRAKASAM DISTRICT. [R2 TO 4 ARE BEING MINORS REP BY THEIR 1ST RESPONDENT AS NEXT FRIEND]

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Court set aside the order and decree passed in MVOP No.215/2010 dated 26.07.2012 on the file of the Motor Accidents Claims Tribunal cum I Addl.District Judge, Ongole

IA NO: 3 OF 2013(MACMAMP 758 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 stay the order and decree passed in MVOP No.215/2010 dated 26.07.2012 on the file of the Motor Accidents Claims Tribunal cum I Addl.District Judge, Ongole, pending disposal of the court

IA NO: 4 OF 2013(MACMAMP 4079 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

IA NO: 5 OF 2013(MACMAMP 35316 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

Counsel for the Appellant(S):

1.ARAVALA RAMA RAO(SC FOR APSRTC KKAC)

Counsel for the Respondent(S):

1.NUTHALAPATI KRISHNA MURTHY

The Court made the following:

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA**M.A.C.M.A.No.200 of 2013****JUDGMENT:****Introductory:**

1. The appellants/respondents 1 and 2 i.e., Andhra Pradesh State Road Transport Corporation (A.P.S.R.T.C) in M.V.O.P.No.215 of 2010, feeling aggrieved by the Award and Decree dated 26.07.2012 passed by the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, Ongole (for short “the learned MACT”), preferred the present appeal disputing the findings regarding their liability and quantum of compensation awarded by the learned MACT.
2. Respondent Nos.1 to 5 herein are the claimants before the learned MACT. Respondent Nos.2 to 4 are minors represented by their mother, respondent No.1.
3. The claim petition was filed under the Motor Vehicles Act seeking compensation for the death of one Konkala Peda Konda Reddy (hereinafter referred to as “the deceased”) in a motor vehicle accident due to involvement of A.P.S.R.T.C. Bus bearing No.AP 10 Z 3421 (hereinafter referred to as “the offending vehicle”).
4. For the sake of convenience, the parties are hereinafter referred to as the petitioners/claimants and the respondents, as and how they are arrayed in the proceedings before the learned MACT.

Case of the claimants:

5(i). On 23.04.2010 morning, the deceased along with two others started from Purimetla Village to go to Addanki on a motor cycle. When they reached near Modepalli Major Canal between Purimetla and Umamaheswara Agraharam villages, the offending vehicle came in the opposite direction in a rash and negligent manner with high speed and dashed against the motor cycle and dragged it to some distance. As a result, the deceased and two others fell on the road, sustained multiple injuries and died on the spot.

(ii). A case was registered against the driver of the offending vehicle and after investigation, charge sheet was filed covered by C.C.No.125 of 2010 on the file of Judicial Magistrate of 1st Class, Darsi.

(iii). The deceased was doing cultivation and earning Rs.40,000/- to Rs.50,000/- per annum. He was the sole bread winner of the family. Due to his sudden death, the claimants are suffering a lot. Therefore, the claimants sought compensation of Rs.5,00,000/-.

Case of the respondents/APSRTC:

6(i). There was no negligence on the part of the driver of the RTC bus.

(ii). Three persons were travelling on the motor cycle and the rider was driving the vehicle in a zig-zag manner with high speed and lost control over the vehicle and dashed against the bus (offending vehicle).

(iii). The accident occurred due to head-on collision between both the vehicles and therefore the owner, insurer and rider of the motor cycle are necessary parties to the case.

(iv). The rider of the motor cycle had no valid driving licence and the vehicle was not duly registered.

(v). The compensation claimed was excessive.

Findings of the learned MACT:

7(i). Upon appreciation of oral and documentary evidence, particularly the evidence of P.W.2-an eyewitness coupled with Ex.A4-charge sheet filed against the driver of the offending vehicle, the learned MACT held that the accident occurred due to rash and negligent driving of the driver of the APSRTC bus / offending vehicle.

(ii). The learned MACT rejected the contention of the respondents regarding contributory negligence on the ground that mere triple riding on the motor cycle by itself is not sufficient to attribute contributory negligence in the absence of cogent evidence.

(iii). With regard to quantum of compensation, the learned MACT accepted the income of the deceased at Rs.120/- per day and Rs.3,600/- per month. After deducting 1/3rd towards personal expenses and applying multiplier "16", awarded Rs.4,60,800/- towards loss of dependency. Further an amount of Rs.5,000/- towards funeral expenses, Rs.5,000/- towards loss of estate and Rs.10,000/- towards loss of consortium were awarded. In all, a total

compensation of Rs.4,80,800/- with interest at 9% per annum from the date of petition till realization was awarded.

Arguments in the Appeal:

For the appellants/APSRTC:

8(i). The learned Tribunal failed to appreciate that the rider of the motor cycle was negligent and lost control over the vehicle and dashed against the offending vehicle.

(ii). The Tribunal failed to appreciate that three persons were travelling on the motor cycle in violation of Motor Vehicles Act provisions and contributory negligence ought to have been fixed.

(iii). The learned Tribunal failed to appreciate that it is a case of head-on collision and the owner, insurer and rider of the motor cycle are necessary parties to the proceedings.

(iv). The learned Tribunal erred in relying upon the evidence of P.W.2 and ignoring the evidence of R.W.1.

(v). The compensation awarded is excessive.

(vi). Interest awarded at 9% per annum is excessive and liable to be reduced.

For the respondents/claimants:

9(i). The award passed by the learned MACT is based on proper appreciation of evidence.

(ii). The evidence of P.W.2 coupled with FIR and charge sheet clearly establishes negligence on the part of the driver of the offending vehicle.

- (iii). Mere triple riding by itself not sufficient to accept contributory negligence.
- (iv). The compensation awarded by the learned MACT is just and reasonable and requires no interference.

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

Points:

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

- (1). Whether the liability fixed and compensation of Rs.4,80,800/- awarded by the learned MACT under the award and decree dated 26.07.2012 in M.V.O.P.No.215 of 2010 are sustainable in law and on facts or whether require any interference and if so, on what grounds and to which extent?
- (2). What is the result of the appeal?

Point No.1:

Accident and Negligence:

12(i). As per the provisions of the Motor Vehicles Act and Motor vehicle Rules and as per the ratio laid down by this Court, the record maintained by the police can be the basis to consider the claim made in terms of the Motor vehicles Act. In a case between ***New India Assurance Company Ltd., Vs. Kethavarapu Sathyavathi and Ors.***¹, the Hon'ble Division Bench of High Court of Andhra Pradesh has referred to Section 168, 169 of M.V. Act and Rule 476(7) of A.P.

¹ 2009 Supreme (AP) 136=2010(2) ALD 403=2009(3) ALT 260

Motor Vehicles Rules and also catena of decisions. The point for consideration before the Hon'ble Division Bench was that in holding an inquiry in terms of Motor Vehicles Act, what is the procedure to be followed and whether the F.I.R. can be basis for considering the claim. Relevant observations are in para Nos.5 to 7.

(ii). In a case between ***Bhagwan Ram and Ors. Vs. Deen Dayal and Ors.***², while considering the nature of proof is required for believing the negligent driving in Motor Accident Claims, the Hon'ble High Court of Rajasthan found that Certificate and the copies of documents prepared by the Police on the spot, including the Challan, First Information Report etc. are admissible, even in the absence of statement of eye witnesses and the same can be the basis to believe the negligent driving of the driver of the offending vehicle, vide para-11.

(iii). In ***Anitha Sarma and Others Vs. New Indian Assurance Company Ltd.***³, the Honble Apex Court observed that in Motor Accident Claims, standard of proof required is the preponderance of possibilities but not beyond reasonable doubt; approach and role of the Courts, while examining the evidence in accident cases, ought not to be to find fault with non-examination of the best eye witnesses, as may happen in criminal Trial, but instead should be only to analyse the material placed on record by the parties to ascertain

² 2013 (0) sc (Raj) 812

³ 2021(1) SCC 171

whether the claimant's version is more likely than not true. The relevant observations are in para-17.

(iv). The Hon'ble Apex Court in ***Bimla Devi and others Vs. Himachal Road Transport Corporation***⁴, 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..”

13. In the present case, it is relevant to note that the claim is laid in terms of Section 163-A of the Motor Vehicles Act, for which the involvement of the vehicle alone is enough. Negligence etc. need not to be proved. However, the appellant in their wisdom has expanded the scope of the enquiry / trial under the Motor Vehicles Act, which is a social welfare legislation to the extent of examining the negligence by way of counter and cross-examination of the witnesses.

14(i). P.W.2 is an eye witness to the accident. He has deposed the clear terms that he has an eye witness to the accident and that as the driver of the offending vehicle/A.P.S.R.T.C. bus is negligent.

⁴ 2009 (13) SCC 530

(ii). During cross examination, nothing important could be elicited to discredit his testimony except suggesting that he did not witness the accident. It is relevant to note that P.W.2 stated very firmly that he was cited as a witness in the charge sheet.

15. R.W.1, the driver of the offending vehicle, denied the negligence and stated that the motorcyclist came in a triple riding and hit the vehicle. But, he has admitted that he was charge sheeted by the police and that he was attending the Court at Darsi in a case registered in terms of Section 304-A IPC.

16. Upon examining the scope of Section 163-A and the provisions of the Motor Vehicles Act and Rules made thereunder, in the light of the evidence of P.W.2, the conclusions drawn by the learned MACT on the point of negligence etc. found fit to be accepted and grounds to interference are not found.

17. Mere triple riding by itself cannot be a ground to believe that there was negligence on the part of the motorcyclist. It is not known what is the judgment in the criminal case tried against the driver of the offending vehicle was. Therefore, either with regard to the negligence of the motorcyclist or contribution of any negligence, scope for interference is not found.

18. It is also relevant to note that the deceased Konkala Peda Konda Reddy was not the rider of the motorcycle and one Koti Reddy was the rider of the motor cycle.

Quantum and liability:

19. The death of the deceased is due to accident is shown by the oral evidence of P.Ws.1 and 2 and the documentary evidence covered by Ex.A2-Inquest Report and Ex.A3-Post Mortem certificate. As per inquest Report and Post Mortem certificate, the deceased was aged about '35' years as on the date of accident. Cultivation and agriculture is shown as the source of income. No specific proof is placed. Therefore, notional income can be taken into consideration.

20. As per P.W.1, the income of the deceased was around Rs.40,000/- to Rs.50,000/- per annum. However, for want of proof etc., the learned MACT has adopted the income of the deceased at Rs.120/- per day. The same is found as reasonable. However, in view of age of the deceased being '35' years and in view of the his occupation being in the unorganized sector, addition of at least 20% is possible, whereby the income of the deceased can be accepted around at Rs.150/- per day, which comes to Rs.4,500/- per month. $\frac{1}{3}^{\text{rd}}$ of the income can be deducted towards personal expenditure, whereby the contribution of the deceased to the family comes to Rs.3,000/- per month and Rs.36,000/- per annum, which can be considered as the multiplicand. Upon application of multiplier '16' applicable to the age of the deceased, the entitlement of claimants towards compensation under the head of loss of dependency comes to Rs.5,76,000/-(Rs.36,000/- x 16).

21. Further, the claimants are entitled for compensation under the conventional heads i.e. Rs.40,000/- each towards loss of consortium, Rs.15,000/- towards funeral expenditure and Rs.15,000/- towards loss of estate.

22. As per the table provided in terms of Section 163-A of the Motor Vehicles Act viz. Schedule-II, the maximum income that can be taken is Rs.40,000/-. The compensation that can be awarded under the head of loss of dependency is Rs.5,76,000/-, which does not include compensation that can be awarded under the conventional heads.

23. It is relevant to note that the compensation fixed under the conventional heads under the Motor Vehicles Act is found as very low by the Hon'ble Supreme Court in **Sarla Verma (Smt.) and Ors. Vs. Delhi Transport Corporation and Anr.**⁵ It is also observed by the Hon'ble Apex Court that the same require enhancement and that the scales are fixed decades back. Therefore, the claimants are entitled for compensation under the heads of loss of consortium, loss of estate and funeral expenditure in tune with the precedential guidance of the Hon'ble Supreme Court as the guidance of the Supreme Court is the law of the land by virtue of Article 141 of the Constitution of India.

⁵ 2009 (6) SCC 121

24. 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.4,60,800/-	Rs.5,76,000/-
(ii)	Loss of estate	Rs.5,000/-	Rs.15,000/-
(iii)	Loss of Consortium	Rs.10,000/- @ Claimant No.1/ wife of the deceased	Rs.2,00,000/- @ Rs.40,000/- to each claimant
(iv)	Funeral expenses	Rs.5,000/-	Rs.15,000/-
	Total compensation awarded	Rs.4,80,800/-	Rs.8,06,000/-
	Interest (per annum)	9%	

Precedential guidance:

25(i). For having uniformity of practice and consistency in awarding just compensation, the Hon'ble Apex Court provided guidelines as to adoption of multiplier depending on the age of the deceased in **Sarla Verma (Smt.) and Ors. Vs. Delhi Transport Corporation and Anr.** (1 supra) 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**⁶ case directed for adding future prospects at 50% in respect of permanent employment where the deceased is below 40 years, 30%

⁶ 2017(16) SCC 680

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***⁷, 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 the children and parents of the deceased under the heads of parental consortium and filial consortium.

Just Compensation:

26. In ***Rajesh and others vs. Rajbir Singh and others***⁸, the Hon'ble Supreme Court in para Nos.10 and 11 made relevant observations.

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

27. The legal position with regard to awarding more compensation than what claimed has been considered and settled by the Hon'ble Supreme Court

⁷ (2018) 18 SCC 130

⁸ (2013) 9 SCC 54

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**⁹, at para 21 of the judgment.

(2) **Kajal Vs. Jagadish Chand and Ors.**¹⁰ at para 33 of the judgment.

(3) **Ramla and Others Vs. National Insurance Company Limited and Others**¹¹ at para 5 of the judgment.

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

28(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**

⁹ (2003) 2 SCC 274

¹⁰ 2020 (04) SCC 413

¹¹ (2019) 2 SCC 192

vs. E. Suseelamma and others¹² in M.A.C.M.A. No.945 of 2013, while answering point No.3 framed therein vide, para 50 of the judgment.

(ii). Observations made by the Division Bench of this Court in **National Insurance Company Limited vs. E. Suseelamma and others** (12 supra) case are in compliance with the observations of Hon'ble Apex Court in **Surekha and Others vs. Santosh and Others**¹³.

(iii). In **Surekha and Others vs. Santosh and Others** (13 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.

29. In view of the discussion made above and in the light of the statutory and precedential guidance in the facts and circumstances of the case, the point framed is answered concluding that the entitlement of claimants and the liability fixed on the respondents under the award under questioned / challenged require no interference. However, the claimants are entitled for compensation for Rs.8,06,000/- with interest at the rate of 6% per annum from the date of

¹² 2023 SCC Online AP 1725

¹³ (2021) 16 SCC 467

petition till the date of realization and accordingly, the Award and Decree dated 26.07.2012 passed by the learned MACT in M.V.O.P.No.215 of 2010 require modification. Point framed is answered accordingly. Considering the length of time and the enhancement of compensation, interest is awarded at the rate of 6% per annum.

Point No.2:

30. In the result, the appeal is dismissed. However,

- (i) Compensation awarded by the learned MACT in M.V.O.P.No.215 of 2010 at Rs.4,80,000/- with interest at the rate of 9% per annum is modified and enhanced to Rs.8,06,000/- 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.1 / wife of the deceased is entitled for Rs.2,56,000/- with proportionate interest and costs.
 - (b) Claimant Nos.2 to 4 / children of the deceased are entitled for Rs.1,50,000/- each with proportionate interest.
 - (c) Claimant No.5 / father of the deceased is entitled for Rs.1,00,000/- with proportionate interest.
- (iv) Respondents before the learned MACT / A.P.S.R.T.C (appellants herein) are 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 respondents / 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 respondents / 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) Claimant Nos.2 and 4 / children of the deceased are entitled to withdraw the amount on attaining majority subject to the necessary recognition as majors and permission by the learned MACT as per the law.

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

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

A. HARI HARANADHA SARMA, J

Date:19.06.2026
Knr

HON'BLE SRI JUSTICE A. HARI HARANADHA SARMA

M.A.C.M.A No.200 of 2013

19th June, 2026

Knr