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APHC010249332012



**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: 1131/2012****Between:**

1. DEPOT MANAGER APSRTC & ANOTHER, ANDHRA PRADESH STATE ROAD TRANSPORT CORPORATION SIMHALACHALAM, VISAKHAPATNAM
2. CHAIRMAN CUM MANAGING DIRECTOR, ANDHRA PRADESH STATE ROAD TRANSPORT CORPORATION MUSHEERABAD, HYDERABAD

...APPELLANT(S)**AND**

1. ALLADA CHAYADEVI 3 OTHERS, W/O LATE ALLADA TRINADHA RAO HOUSEWIFE R/O 38-5-23/1, MARRIPALEM, VISAKHAPATNAM
2. ALLADA GOWTHAM KUMAR, S/O LATE ALLADA TRINADHA RAO R/O 38-5-23/1, MARRIPALEM, VISAKHAPATNAM
3. ALLADA SARATH KUMAR, S/O LATE ALLADA TRINADHA RAO R/O 38-5-23/1, MARRIPALEM, VISAKHAPATNAM
4. DUVVURI APPA RAO, S/O LAT APPANNA DRIVER R/O VILLAGE CHEEMALAPALLI DISTRICT, DIST. VISAKHAPATNAM (SET EX PARTE)

...RESPONDENT(S):

Appeal filed under Order 41 of CPC praying that the Highcourt may be pleased toto set aside the Order & Decree passed in MOP No. 839 of 2007 dt. 12-1-2012 on the file of Motor Accidents Claims Tribunal District Judge, Visakhapatnam on the above grounds, with coss and pass such other orders in the interest of justice and equity. Otherwise it will result in grave miscarriage of justice.

IA NO: 1 OF 2012(MACMAMP 2550 OF 2012

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 stay the orders and decree dt. 12-1-2012 passed in MOP No. 839 of 2007 by Dist. Judge Motor Accidents Claims Tribunal, Visakhapatnam pending disposal of CMA and pass

Counsel for the Appellant(S):

1. VINOD KUMAR TARLADA (SC FOR APSRTC)

Counsel for the Respondent(S):

1. VOMMI PARTHA SARADHI

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 1611/2012**Between:**

1. ALLADA CHAYA DEVI, W/O LATE A TRINADHA RAO R/O 38523/1 MARRIPALEM VISAKHAPATNAM
2. ALLADA GOWTHAM KUMAR, S/O LATE A. TRINADHA RAO, STUDENT, R/O 38-5-23/1, MARRIPALEM, VISAKHAPATNAM.
3. ALLADA SARATH KUMAR, S/O LATE A. TRINADHA RAO, STUDENT, R/O 38-5-23/1, MARRIPALEM, VISAKHAPATNAM.

...APPELLANT(S)**AND**

1. DUVVURI APPA RAO AND 2 OTHERS, S/O LATE APPANNA, DRIVER, APSRTC, SIMHACHALAMDEPOT, VISAKHAPTNAM. R/O CHEEMALAPALLI VILLAGE, PENDURTHY MANDAL, VISAKHAPATNAM.
2. THE DEPOT MANAGER, ASPRTC, SIMHACHALAM DEPOT, VISAKHAPTNAM.
3. THE CHAIRMAN CUM MANAGING DIRECTOR, APSRTC, MUSHIRABAD, HYDERABAD.

...RESPONDENT(S):

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

IA NO: 1 OF 2012(MACMAMP 3132 OF 2012)

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 permit the petitioner to enhance the compensation claimed in OP.NO. 839 of 2007 on the file of the MACTcum District Judge, Visakhapatnam from RS.19 lakhs to Rs.30 lakhs

Counsel for the Appellant(S):

1. VOMMI PARTHA SARADHI
- 2..

Counsel for the Respondent(S):

1. VINOD KUMAR TARLADA (SC FOR APSRTC)
- 2.

The Court made the following:

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

M.A.C.M.A.Nos.1131 and 1611 of 2012

COMMON JUDGMENT:

Introductory:

1. Both MACMA Nos.1131 of 2012 and 1611 of 2012 are directed against the award and decree dated 12.01.2012 passed in M.O.P.No.839 of 2007 by the Chairman, Motor Accidents Claims Tribunal-cum-District Judge, Visakhapatnam (for short “the learned MACT”).
2. Respondent Nos.2 and 3, representing A.P.S.R.T.C. before the learned MACT, are the appellants in M.A.C.M.A.No.1131 of 2012 and the claimants before the learned MACT are the appellants in M.A.C.M.A.No.1611 of 2012.
3. Respondent No.1 in M.A.C.M.A.No.1611of 2012, who is respondent No.4 in M.A.C.M.A.No.1131 of 2012 is the driver of the A.P.S.R.T.C. bus bearing registration No.AP 10 Z 1901 (hereinafter referred to as “the offending vehicle”) and he is a proforma party in these appeals. He remained *ex parte* before the learned MACT.
4. For the sake of convenience, the parties are hereinafter referred to as the claimants and the respondents with reference to their status before the learned MACT.

Case of the claimants:

5. One Allada Thrinadaharao (hereinafter referred to as “the deceased”) is the husband of claimant No.1 and father of claimant Nos.2 and 3. On the fateful day i.e. 25.06.2006, while the deceased was proceeding on his scooter near Mrippalem, the A.P.S.R.T.C. bus / offending vehicle, driven by its driver, came in a rash and negligent manner and dashed the scooter from behind, whereby the deceased fell down and sustained grievous injuries. Immediately, he was shifted to Seven Hills Hospital, Visakhapatnam and from there to St. Joseph’s Hospital, Visakhapatnam and thereafter to Surya Hospital, Visakhapatnam. But, on 29.04.2007, he succumbed to the injuries. A sum of Rs.3,50,000/- was spent towards the medical expenditure.

6. A case in crime No.105 of 2006 was registered for the offences under sections 338 and 304-A of IPC and subsequently the driver of the offending vehicle was charge sheeted.

7. The deceased was aged ‘44’ years as on the date of accident and was earning Rs.14,000/- per month as an Operator in A.P. Beverages, IML Depot, Visakhapatnam and he was contributing his entire income to the family. Due to the death of the deceased, the claimants lost all support of the deceased. Hence, they are entitled for just and reasonable compensation.

Case of respondents:

8. The petitioners shall prove the pleaded accident, negligence of the driver of the RTC bus / offending vehicle, death of deceased due to accident, age, occupation, income of the deceased and dependency of the claimants.

9. Further, the respondents (appellants) claimed that negligence of the deceased in riding the scooter is cause for the accident. Therefore, the claimants are not entitled for compensation and the petition is fit to be dismissed.

Findings of the learned MACT:

10. By relying on the evidence of PW.6, eye witness to the accident and the crime record covered by Ex.A1-FIR and Ex.A14-charge sheet filed under Section 338 IPC and Ex.A15 charge sheet filed altered to Section 304-A IPC and also referring to the evidence of R.W.1, the driver of the RTC bus, the learned MACT found that the negligence of the driver of the bus is the cause for the accident and that the deceased died due to the said accident. Further, by referring to the age of the deceased i.e. '44' years, as mentioned above in post-mortem certificate, the evidence of P.W.2, the Accounts Officer where the deceased was working, Ex.X1-Salary Certificate, Ex.X2-Service Register and after adding future prospects and after referring to medical bills covered by Ex.A7, Ex.A8 and Ex.A9 and also the evidence of P.W.4 and P.W.5 quantified the medical expenditure incurred at Rs.1,50,801/- and the total entitlement of claimants for compensation was found at Rs.22,15,741/- by the learned MACT.

Arguments in the appeal:**For the claimants:**

11. The claimants, in their appeal i.e.M.A.C.M.A.No.1611 of 2012, sought for enhancement to Rs.30,00,000/- stating that future prospects ought to have been taken into consideration while calculating the entitlement.

For the respondents:

12(i). The respondents, in their appeal i.e. M.A.C.M.A.No.1131 of 2012, disputing the rate of interest granted at 7.5% as excessive and submitted that the income should have been taken at Rs.11,853/- per month only instead of Rs.19,000/- per month.

(ii). The multiplier applied is also incorrect and that the medical expenditure arrived at Rs.1,50,801/- is baseless and irrational.

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

14. The points that arise for determination in these appeals are:

- 1) Whether the occurrence of the accident and negligence of the driver of the RTC bus / offending vehicle being the cause for the accident and death of the deceased due to the accident and the absence of negligence on the part of the deceased, are properly made out and whether properly appreciated by the learned MACT?

- 2) Whether the compensation of Rs.22,15,741/- awarded by the learned MACT is just and reasonable or requires any interference, either by way of enhancement or reduction and if so, to what extent?
- 3) What is the result of the appeal in M.A.C.M.A.No.1131 of 2012?
- 4) What is the result of the appeal in M.A.C.M.A.No.1611 of 2012?

Point No.1:

15. The accident is not in dispute. The driver of the RTC bus was charge-sheeted. He remained *ex parte* before the learned MACT.

16(i). The evidence of driver of the RTC bus, examined as R.W.1, would show that upon hearing shouting from passers-by on the road, he stopped the bus and got down along with some passengers and noticed that a person along with the scooter had fallen on the road. He denied the negligence during chief examination.

(ii). During cross-examination, he has admitted that the Police filed a charge sheet against him in connection with the present accident. It was suggested to him that as punishment stoppage of two increments was imposed.

17(i). The evidence of PW.6, an eye-witness and third party is that the RTC bus crossed him and while about to take right turn and dashed the scooter from behind in a rash and negligent manner, whereby the rider of the scooter fell on the road and sustained head injury.

(ii). During cross examination, it was suggested to him that he did not witness the accident.

18. The FIR, charge sheet and other connected documents, as well as the evidence of PW.6, are indicating the death of deceased due to the accident.

Statutory and Precedential Guidance:

Statutory and Precedential Guidance:

Statutory Guidance:

19(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:

20. 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

¹ 2009 (13) SCC 530

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..”

21. In view of the evidence and statutory and precedential guidance, this Court concludes that the occurrence of the accident and the negligence of the bus / offending vehicle being the cause for the accident and death of the deceased due to accident are clearly shown. Therefore, point No.1 is answered in favor of the claimants and against the respondents /A.P.S.R.T.C.

Point No.2:

Precedential guidance:

22(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.***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.

² 2009 (6) SCC 121

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

Just Compensation:

23. 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:

³ 2017(16) SCC 680

⁴ (2018) 18 SCC 130

⁵ (2013) 9 SCC 54

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 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.

24. P.W.1 / Allada Chaya Devi, the wife of the deceased stated about the accident and death of the deceased due to accident and the treatment taken at

Seven Hills Hospital from 25.06.2006 to 04.07.2006, at St. Josephs Hospital from 05.07.2006 to 28.10.2006 and at Surya Hospital from 12.02.2007 to 28.02.2007.

25. P.W.2 / K.V. Ramana, Accounts Officer, AP Beverages, IML Depot, Visakhapatnam, stated about the occupation of the deceased and the gross salary of deceased at Rs.14,440/- and net salary at Rs.11,853/- and also about the possibility of increase in the salary of the deceased.

26. During cross-examination, he stated that there is no material as to showing payment of enhanced salary under pay revision to the employees and also stated that Rs.2,00,000/- was paid to family members of the deceased employee as death benefits.

27. P.W.3 / Sister Claric, Administrator of Hospital, stated about the treatment undergone by the deceased at the hospital between 05.07.2006 to 28.10.2006.

28. P.W.4/ Dr. M. Dinakar, Medical Superintendent, Seven Hills Hospital, Visakhapatnam, stated about the treatment given to the deceased from 25.06.2006 to 04.07.2006 and also about the case sheet.

29. P.W.5 / Dr. K. Devaraju, Medical Superintendent, Surya Hospital, Visakhapatnam, stated about the treatment of the deceased from 12.02.2007 to 28.02.2007.

30. Ex.A7-bunch of medical bills are standing for Rs.77,355/-, Ex.A8-bunch of medical bills are standing for Rs.13,912/-, Ex.A9 bunch of medical bills are

standing for Rs.1,04,319/-. The total medical expenditure of all the three hospitals comes to Rs.1,95,586/-.

31. As per the Ex.A10, the net salary of the deceased is Rs.12,446/-.

32 From the evidence, the following things are clear:

(i). Medical bills are standing for around Rs.1,95,586/- for the treatment of the deceased.

(ii). Net salary of the deceased was Rs.12,446/-.

(iii). The learned MACT, after referring to the net salary of Rs.11,853/-, hike in pay up to Rs.19,000/-, deducted Rs.2,000/- towards deductions, observing that the same will be inclusive of future prospects and accepted the net salary at Rs.17,000/-. Deducted 1/3rd towards the personal expenditure and arrived at contribution of the deceased to the family at Rs.11,333/- per month and the annual contribution at Rs.1,35,996/-, however, adopted the multiplier '15'.

33. As per the medical record of Seven Hills Hospital, Visakhapatnam and the wound certificate, the age of the deceased is '43' years. For the age group of '43' years, the multiplier applicable is '14'. Therefore, same is required to be applied. When the same is applied the entitlement of the claimants under the head of loss of dependency comes to Rs.19,03,944/- (Rs.1,35,996 x 14).

34. However, under the heads of loss of consortium, learned MACT awarded only Rs.10,000/- to claimant No.1. Towards loss of estate, Rs.10,000/- was

awarded and towards funeral expenditure, only Rs.5,000 was awarded. The same require enhancement.

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

36. In view of the reasons and evidence referred above, the entitlement of the claimants 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.20,39,940/-	Rs.19,03,944/-
(ii)	Loss of estate	Rs.10,000/-	Rs.15,000/-
(iii)	Loss of Consortium	Rs.10,000/- @ Claimant No.1	Rs.1,20,000/- @ Rs.40,000/- each claimant
(iv)	Funeral expenses	Rs.5,000/-	Rs.15,000/-
(v)	Medical expenditure	Rs.1,50,801/-	Rs.1,95,586/-
	Total compensation awarded	Rs.22,15,741/-	Rs.22,49,530/-
	Interest (per annum)	7.5%	7.5%

37. For the reasons aforesaid and in view of the discussion made above, the point No.2 framed is answered concluding that the claimants are entitled for compensation of Rs.22,49,530/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization and the order and decree dated 12.01.2012 passed by the learned MACT in M.O.P.No.839 of 2007 require modification accordingly.

Point No.3:**M.A.C.M.A.No.1131 of 2012:****Result:**

38. In view of the discussion and conclusions drawn under point No.2, the appeal filed by the A.P.S.R.T.C. *vide* M.A.C.M.A.No.1131of 2012 is fit to be dismissed. Accordingly, M.A.C.M.A.No.1131 of 2012 is dismissed. There shall be no order as to costs.

Point No.4:**M.A.C.M.A.No.1611 of 2012:**

39. In the result,

- (i) M.A.C.M.A.No.1611 of 2012 filed by the claimants is partly allowed.
- (ii) Compensation awarded by the learned MACT in M.O.P.No.839 of 2007 at Rs.22,15,741/- with interest at the rate of 7.5% per annum is modified and enhanced to Rs.22,49,530/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization.
- (iii) **Apportionment:**
 - (a) Claimant No.1 / wife of the deceased is entitled to Rs.8,49,530/- with proportionate interests and costs.
 - (b) Claimant Nos.2 / son of the deceased is entitled to Rs.7,00,000/- with proportionate interest.

- (c) Claimant No.3 / son of the deceased is entitled to Rs.7,00,000/- with proportionate interest.
- (iv) Respondent Nos.2 and 3 before the learned MACT / A.P.S.R.T.C 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 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.

40. As a sequel, miscellaneous petitions, if any, pending in these appeals 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.Nos.1131 & 1611 of 2012

08.01.2026

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