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APHC010627682013



[3520]

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

TUESDAY, THE TWENTY FOURTH DAY OF MARCH
 TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 866/2013

Between:

1.K.PARVATHI, W/O. LATE ANNAIAH NAIDU, OCC: HOUSEWIFE, R/O. CHOWDEPALLE VILLAGE, PUTHALAPAT MANDAL, CHITTOOR DISTRICT.

...APPELLANT

AND

1.SMT K JYOTHI BHUVANESWARI 3 OTHERS, W/O. K.ANNAIAH NAIDU, OCC: HOUSEWIFE, R/O. N.KATTAKINDAPALLE VILLAGE, E.KOTHURU POST, IRLA MANDAL, CHITTOOR DISTRICT.

2.K RAGHUNADHA NAIDU, S/O. CHINNA AKKAIAH NAIDU, OCC: CULTIVATION R/O. N.KATTAKINDAPALLE VILLAGE, E.KOTHURU POST, IRLA MANDAL, CHITTOOR DISTRICT.

3.SMT M NIRMALA, W/O. CHENGALPATHI NAIDU, OWNER OF TEMPO MINI LORRY, NO. AP 03 V 4167, R/O. SIVA JYOTHI NAGAR, D.NO. 20-3-53E, (ERRA MITTA), TIRUPATHI, CHITTOOR DISTRICT.

4.THE NATIONAL INSURANCE COMPANY LIMITED, REP. BY ITS
BRANCH MANAGER, TIRUPATI, CHITTOOR DISTRICT.

...RESPONDENT(S):

Counsel for the Appellant:

1.SURESH KUMAR REDDY KALAVA

Counsel for the Respondent(S):

1.K SITA RAM

2.GUDI SRINIVASU

3.A V NARAYANA RAO

The Court made the following:

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA**M.A.C.M.A.No.866 of 2013****JUDGMENT:****Introductory:**

The 3rd respondent in M.V.O.P. No. 358 of 2005 on the file of the IX Additional District Judge-cum-Motor Accidents Claims Tribunal (FTC), Chittoor (for short “the learned MACT”), filed the present appeal. Her status as wife of one K. Annaiah Naidu (deceased) is in dispute.

2. The 1st and 2nd respondents herein are the claimants. The 3rd respondent herein is the owner of the tempo mini Lorry bearing No.AP 03 V 4167 [*hereinafter referred as ‘the offending vehicle’*] and the 4th respondent herein is the Insurance Company with which the offending vehicle was insured.

3. Claim was made by the 1st and 2nd respondents herein for awarding a compensation of Rs.4,00,000/- for the death of one K. Annaiah Naidu [*hereinafter referred as ‘the deceased’*] in motor vehicle accident, contending that the 1st respondent is the wife, the 2nd respondent is the father of the deceased, and disputing the status of appellant that she is not the wife of the deceased.

4. Learned MACT awarded a compensation of Rs.2,60,000/- in total with interest 7.5%p.a., out of which, apportioned the amount of Rs.90,000/- each to

the appellant and the 1st respondent herein, being wives, and Rs.80,000/- to the 2nd respondent, father of the deceased.

5. Appeal is filed contending that the appellant alone is entitled for entire compensation and that the quantum of compensation awarded is not just and reasonable.

6. For the sake of convenience, parties will be herein after referred as the claimants and the respondents as and how they are arrayed before the learned MACT.

Case of the claimants, in brief, is that:-

7. [i] On 18.8.2002 at about 5.30 p.m., the deceased left Tirupati in the offending vehicle, for getting the load of papaya fruits from Koduru, when the vehicle was near the hotel of Maravaripalle cross, the driver of the said lorry drove the same in a rash and negligent manner, and hit the backside of the oil tanker bearing No.AP 03 U 1440, causing accident. In the said accident, K.Annamaya Naidu/deceased sustained severe and multiple injuries and succumbed to the injuries while shifting to the hospital.

[ii] A case in Crime No.100 of 2002 was registered for the offences under Section 337-304A IPC, and charge sheet was laid against the driver of the offending vehicle.

[iii] The deceased was aged about 38 years; hale and healthy, working as a Manager under 1st respondent, getting a salary of Rs.2000/- per month, and batta of Rs.50/- per day. He has agricultural lands in an extent of Ac.1.80 cents of wet land and Ac.0.60 cents of dry land, raising the crops and was earning Rs.33,000/- by way of agricultural income per annum. He was contributing his all income to the family and the petitioners lost all valuable support. Hence, the claim.

[iv] The 3rd respondent filed Petition vide OP No.15 of 2003 for grant of Succession Certificate, claiming that she is wife of the deceased. Hence, she is made as a party, although she is not entitled.

[v] The 1st respondent is the owner of the offending vehicle. 2nd respondent is the authorized insurer, with whom the vehicle was insured. Therefore, the first and second respondents are liable to pay.

Case of the first respondent, owner of the offending vehicle.

8. [i] Claimants shall prove the age, occupation and income of the deceased.

[ii] Compensation claimed is excessive.

[iii] Offending vehicle was insured with the 2nd respondent. In the event of any liability, the 2nd respondent is accountable.

Case of the 2nd respondent/Insurance Company:-

9. [i] Claimants shall prove the pleaded accident, negligence of the driver of the offending vehicle, age, occupation, and income of the deceased, loss of dependency, etc.

[ii] Further, the Insurance Policy, compliance of Policy conditions, etc., shall be proved.

[iii] Negligence of the driver of the Oil Tanker is the cause for the accident, the petition is bad for non-joinder of necessary parties.

[iv] The deceased is a gratuitous passenger. Therefore, the 2nd respondent is not liable to pay any compensation.

Case of the 3rd respondent:-

10. [i] The 3rd respondent is the legitimate wife of the deceased.

[ii] She has filed OP No.15 of 2003 for grant of Succession Certificate and the same is pending.

[iii] Subject matter of the Succession Certificate is in respect of the amount lying in the Primary Agricultural Co-operative Society (PACS), Nampalli.

[iv] The 1st and 2nd petitioners have colluded and filed the present case. The 3rd respondent alone is entitled to the compensation. The 1st petitioner was

planted by the 2nd petitioner to knock away the compensation amount; the 3rd respondent and the 2nd petitioner are the only legal heirs under law. There were misunderstandings between the 3rd respondent and her husband. However, they have been settled.

11. Considering the pleadings, learned MACT settled issues touching the points - 1) Accident and negligence 2) Entitlement of 1st petitioner and the 3rd respondent for compensation and entitlement of the 2nd petitioner as well as the liability of the respondents.

Findings of the learned MACT:-

12. [i] Admittedly, the 2nd petitioner is the father of the deceased.

[ii] Relationship of the 1st petitioner and the 3rd respondent with the deceased is in dispute.

[iii] Ex.B3 is disclosing the marriage of the 1st petitioner with the deceased.

[iv] Ex.B4 is disclosing the marriage of the 3rd respondent with the deceased and also the 3rd respondent and the deceased living in a house prior to 3.9.1981 whereas the marriage of the 1st petitioner with the deceased taken place on 19.06.1995.

[v] As against the Succession Certificate granted to the 3rd respondent, appeal is pending vide AS No.21 of 2012 on the file of the Principal District Judge, Chittoor.

[vi] The evidence is indicating that the deceased married 3rd respondent, lived with her for some time, later married the 1st petitioner and lived with her until his death.

[vii] Inquest report indicating participation of both wives. Therefore, it can be said that the deceased died in an accident, leaving behind him, the 1st petitioner as his second wife and the 3rd respondent as his first wife and 2nd petitioner is his father. All the three can be considered as legal representatives of the deceased.

[viii] The income of the deceased can be accepted @Rs.24,000/- per annum. '15' multiplier is applicable.

[ix] Upon deducting 1/3rd towards personal expenditure, the entitlement for claimants comes to Rs.2,40,000/-, and Rs.5,000/- towards funeral expenditure and Rs.5,000/- each to the 1st petitioner and the 3rd respondent towards loss of consortium and Rs.5,000/- towards loss of estate. In all claimants are a compensation of Rs.2,60,000/-, with apportionment @Rs.90,000/- each to the 1st petitioner and the 3rd respondent and Rs.80,000/- for the 2nd petitioner/father of the deceased.

Arguments in the appeal:

For the appellant/3rd respondent:-

13. [i] The appellant/3rd respondent has obtained a Succession Certificate.

[ii] According to the observations of the learned MACT, since she is the wife of the deceased, total compensation ought to have been awarded to her.

[iii] Taking income @Rs.24,000/- per annum is not correct.

[iv] There is no rationality in quantification and apportionment of compensation. Claimants are entitled for more compensation.

For the 2nd respondent- Insurance Company :-

14. [i] Compensation awarded is excessive.

[ii] The deceased is a gratuitous passenger.

[iii] Insurance Company is not liable to pay any compensation for the claimants.

[iv] The appellant is not entitled for any compensation since she has been living separately and the propriety of Succession Certificate obtained by her is questioned and the subject matter is subjudice before the appellate court. The appeal is liable to be dismissed.

Scope of the appeal:-

15. [i] There is no appeal by the Insurance Company, therefore, the issue relating to the liability of the Insurance Company is out of the dispute.

[ii] There is no appeal by the claimants. Therefore, the entitlement of the 3rd respondent for the compensation is out of dispute.

[iii] The appeal is filed by the 3rd respondent, therefore, exclusive entitlement of the 3rd respondent for the compensation and the quantification of compensation done by the learned MACT alone are the subject matters of the present appeal.

16. The points that arose for determination in this appeal are –

- 1) Whether the 3rd respondent/appellant alone is entitled for the compensation and the 1st petitioner in M.V.O.P.No.358 of 2005 before the learned MACT is not entitled for any compensation?
- 2) Whether the compensation of Rs.2,60,000/- awarded by the land MACT in M.V.O.P.No.358 of 2005 under the impugned Award and Decree dated 21.12.2012 is just, adequate and reasonable? Or require any enhancement?
- 3) What is the result of the appeal?

Point No.1:-

17. The 3rd respondent as RW1 relied on the Succession Certificate granted in her favor on 09.08.2010. Subject matter in that case is amount lying in a PACS Nampally. She has applied for Succession Certificate. During her cross-examination, it is elicited that, as per Ex.B3/ the 1st petitioner is the wife of the deceased, and their marriage was performed on 19.06.1995. She did not file any record to show that she was residing with the deceased at Kattakindapalli Village. The decree of Succession Certificate is challenged in the appeal Vide A.S.No.21 of 2011 on the file of the Court of District Judge, Chittoor and the said appeal is pending.

18. The 1st petitioner was examined as P.W.1, and her evidence as to the relationship of the 3rd respondent with the deceased is concerned, she is claiming that 3rd respondent (appellant) is not the wife of the deceased and the Succession Certificate was obtained with false allegations. During the cross-examination done for the 3rd respondent/appellant, PW.1 stated that her marriage with the deceased took place on 19.06.1995 in a in a temple Vinayakaswamy temple of Somala village. She further stated that she do not know that by the date of her marriage whether her husband/ deceased married to 3rd respondent and do not know about the 3rd respondent filing SOP No. 15 of 2002. She further stated that she stayed at Kuwait for a period of one year, after the death of her husband.

19. The 2nd petitioner was examined as PW2 he stated that the 3rd respondent is not the wife of his son/deceased and she never stayed with the deceased. During his cross-examination done for the 3rd respondent, he has stated that photographs shown to him is that of his son, late K. Annaiah Naidu's. Said photograph is marked as Ex.B1. He further stated that in Ex.B1, the other female person is standing before the court (3rd respondent) and he did not know whether Ex.B1 was taken when the marriage of the deceased and the 3rd respondent is performed. He do not know whether his son married the 3rd respondent on 03.09.1981 and he cannot say whether 3rd respondent is his daughter-in-law.

20. Further, the evidence of other witness, RW2 would show that there was marriage between the 3rd respondent and the deceased. Nothing important could be elicited from RW2. RW3 also stated about the marriage between the deceased and the 3rd respondent, except suggesting that the deceased married 1st petitioner nothing is elicited from RW3.

21. RW4 is sister of the 3rd respondent stated about the marriage between the deceased and the 3rd respondent.

22. Oral and documentary evidence placed by the parties is indicating the relationship of the deceased with the 3rd respondent/appellant. Inquest report is indicating the presence of both, the 1st petitioner and the third respondent as blood relatives at serial numbers 2 and 3 and they were shown as first and second wives in the inquest report. Therefore, the entitlement of both the 1st

petitioner and the 3rd respondent for compensation need not be doubted. However, the findings herein shall be confined only to the present claim petition. The respective contentions of the parties regarding their legal status as the wife of the deceased, as well as the validity of the marriage between the deceased and either the 1st petitioner or the 3rd respondent, shall remain subject matter for adjudication in any pending litigations between the parties. The scope of the inquiry in this claim petition is limited solely to the determination of entitlement to compensation on the ground of dependency. Therefore, this Court is of the view that the conclusions drawn herein are limited to entitlement of both the 1st petitioner and the 3rd respondent for compensation.

23. In a similar situation, where the claim of the second wife was disputed considering aspect that the dependency is the criteria for awarding the compensation in a claim under Section 166 of Motor Vehicles Act, the Honourable High Court of Karnataka, in a case between Smt.Lalita Vs. MFA no.24165 of 2012 (MV) and Bach considered the entitlement of the second wife on the ground of dependency, referring to the judgments of the Honourable Apex Court vide ***Rameshwari Devi Vs. State of Bihar and Ors.***¹. Further, the High Court of Madras in C.M.A.(MD) 681 of 2019, observed that the though second wife cannot be considered as a legal representative, certainly she is a dependent while referring to other judgments of the Honourable Apex Court, Honourable

¹ AIR 200 SC 735

High Court of Karnataka and other High Courts interpreting the expression 'legal representative', and held that the second wife is also entitled for compensation.

24. In the light of the evidence and in view of the observations made in the above cited authorities, this Court finds that the first petitioner is also entitled for compensation and findings of the learned MACT as to her entitlement does not warrant any interference. Therefore, this Court finds that 1st and 2nd petitioners as well as the 3rd respondent are entitled for the compensation. Point No.1 is answered accordingly.

Point No.2:-

25. Learned MACT has considered the income of the deceased at Rs.24,000/- per annum. To show the income of the deceased, there is no documentary evidence. Further, it is claimed that the deceased was having landed property and also he was engaged in agricultural operations also.

26. Upon considering socio-economic circumstances of the year 2002, when the accident took place, this Court finds that the income taken by the learned MACT @Rs.24,000/- per annum is reasonable. But upon considering the age of the deceased, this Court finds that there should have been at least 30% addition to the income of the deceased towards future prospects, whereby the income

comes to Rs.31,200/- per annum. $\frac{1}{3}^{\text{rd}}$ is deducted towards personal expenditure contribution of income of the deceased to the family comes Rs.20,800/- per annum. Upon application of multiplier '15', the entitlement of compensation comes to Rs.3,12,000/- under the head of loss of dependency. Both the wives are entitled together Rs.40,000/- @Rs.20,000/- each towards loss of consortium and all the claimants together are entitled Rs.15,000/- towards funeral expenses, Rs.15,000/- towards loss of estate.

27. In view of the reasons and evidence referred above, the entitlement of the claimants and the 3rd respondent 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. 2,40,000/-	Rs. 3,12,000/-
(ii)	Loss of estate	Rs.5,000/-	Rs.15,000/-
(iii)	Loss of Consortium	Rs.10,000/- [@Rs.5000/- each to claimant No.1 and R3]	Rs.80,000/- [@ Rs.40,000/- to the 2 nd claimant and @Rs.20,000/- each to 1 st claimant and the 3 rd respondent]
(iv)	Funeral expenses	Rs.5,000/-	Rs.15,000/-
	Total compensation awarded	Rs.2,60,000/-	Rs.4,22,000/-
	Interest (per annum)	7.5%	6%

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

28. The legal position with regard to awarding more compensation than what is 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 proposition 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**², 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.**³ 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.”

² (2003) 2 SCC 274

³ 2020 (04) SCC 413

(3) **Ramla and Others vs. National Insurance Company Limited and Others**⁴ at para 5 of the judgment, as follows:-

“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.”

29. For the aforesaid reasons and in view of the discussion made above, the point No.2 is answered concluding that the claimants are entitled for compensation of Rs.4,22,000/- with interest at the rate of 6% per annum from the date of petition till the date of realization and the Award and decree dated 21.12.2012 passed by the learned MACT in M.V.O.P.No.358 of 2005 require modification accordingly.

Point No.3:

30. In the result, the **appeal is partly allowed** as follows:-

- (i) the compensation awarded under the award and decree dated 21.12.2012 passed by the IX Additional District Judge-cum-Motor Accidents Claims Tribunal (FTC), Chittoor (MACT) in M.V.O.P.No.358

⁴ (2019) 2 SCC 192

of 2005 at Rs.2,60,000/- with interest at the rate of 7.5% per annum is modified and enhanced to Rs.4,22,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization.

(ii) Claimants/petitioners are liable to pay the Court fee for the enhanced part of the compensation, before the learned MACT.

(iii) **Apportionment:**

(a) Petitioner No.1 and the 3rd respondent / wives of the deceased are entitled for Rs.1,50,000/- each with proportionate interest and costs.

(b) 2nd petitioner / father of the deceased are entitled for Rs.1,22,000/- each with proportionate interest.

(iv) Respondents 1 and 2 before the learned MACT are liable to pay the compensation. However, Respondent No.2 is liable in view of the Insurance Policy.

(v) Time for payment /deposit of balance amount is two (2) months.

(a) If the petitioners/claimants furnish the bank account number within 15 days from today, the 2nd respondent shall deposit the amount directly into the bank account of the claimants and file the necessary proof before the learned MACT.

(b) If the petitioners fail to comply with clause (v)(a) above, the 2nd respondent 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.
- (vii) As a sequel, miscellaneous petitions, if any, pending in the appeal shall stand closed.

A. HARI HARANADHA SARMA, J

Date: 24 .03.2026

Pnr

THE HON'BLE SRI JUSTICE A. HARI HARANADHA SARMA

M.A.C.M.A.No.866 of 2013

24.03.2026

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