

Date of reserved for Judgment :23.12.2025
 Date of Pronouncement :24.03.2026
 Date of uploading :24.03.2026

APHC010476042012



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

[3520]

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: 1189/2012

Between:

- 1.KALLURI KALLAIAH AND 3 OTHERS, S/O SUBBARAYUDU R/O PENUGUDURUPADU VILLAGE AND POST, TSUNDURU MANDAL, GUNTUR DISTRICT.
- 2.KALLURI CHENCHURAMAIAH, S/O KALLAIAH R/O PENUGUDURUPADU VILLAGE AND POST, TSUNDURU MANDAL, GUNTUR DISTRICT.
- 3.KALLURI SRINIVASA RAO, S/O KALLAIAH R/O PENUGUDURUPADU VILLAGE AND POST, TSUNDURU MANDAL, GUNTUR DISTRICT.
- 4.KALLURI VENKATESWARA RAO, S/O KALLAIAH R/O PENUGUDURUPADU VILLAGE AND POST, TSUNDURU MANDAL, GUNTUR DISTRICT.

...APPELLANT(S)

AND

- 1.AREMANDA SUDHAKAR AND ANOTHER, T.M.F. GUN R/O D.NO.03-07 OLD SC COLONY, AREEMANDA,
- 2.UNITED INDIA INSURANCE COMPANY LIMITED, REP.BY ITS

DIVISIONAL MANAGER, 15/1, ARUNDALPET, GUNTUR.

...RESPONDENT(S):

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

IA NO: 1 OF 2011(MACMAMP 2093 OF 2011)

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 condone the delay of 91 days in representing the MACMASR.NO. 5-54 of 2011

IA NO: 2 OF 2011(MACMAMP 2094 OF 2011)

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 condone the delay of 22 days in preferring the MACMA

Counsel for the Appellant(S):

1.B PARAMESEWARA RAO

Counsel for the Respondent(S):

1.S A V RATNAM

2..

The Court made the following:

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA**M.A.C.M.A.No.1189 of 2012****JUDGMENT:**

1. Claimants in M.V.O.P.No.805 of 2009 on the file of the Chairman, Motor Vehicle Accidents Claims Tribunal-cum-XI Additional District and Sessions Judge (Fast Track Court), Guntur at Tenali (for short “the learned MACT”), feeling dissatisfied with the quantum of compensation awarded in a sum of Rs.87,500/-, filed the present appeal questioning the just and adequate nature of compensation.
2. The claim was laid seeking compensation for the death of one Kalluri Koteswaramma in a motor vehicle accident. Claimant No.1 is the husband and claimant Nos.2 to 4 are the sons of the deceased.
3. Respondent No.1 is the owner of the Auto bearing No.AP 07 TT 9032 (hereinafter referred to as “the offending vehicle”) and Respondent No.2 is the insurer.
4. For the sake of convenience, the parties will be hereinafter referred to as “the claimants” and “the respondents” as and how they are arrayed before the learned MACT.

Case of the claimants:

5(i). On 17.06.2009 at about 11:00 a.m., while the deceased was travelling as a pillion rider on a motorcycle near Mamillapalli cross road within the limits of Ponnur Rural Police Station, the offending vehicle, driven by its driver came in a rash and negligent manner and dashed the motorcycle, causing the accident. The deceased fell down and sustained multiple injuries. She was admitted to Government General Hospital, Guntur, but while undergoing treatment, she succumbed to the injuries.

(ii). The deceased was hale and healthy, aged about 50 years, working as a coolie and earning Rs.100/- per day, contributing the same to the claimants. Her death exposed the claimants to loss of dependency.

(iii). The Police registered a case under Section 304(A) of I.P.C vide Crime No.114 of 2009 against the driver of the offending vehicle and subsequently a charge sheet was filed. In view of the death of the deceased due to the accident, the claimants are entitled for reasonable compensation.

6. Respondent No.1, owner of the offending vehicle, did not choose to file any written statement.

Case of respondent No.2-Insurance Company:

7. The claimants shall prove the pleaded accident, negligence of the driver of the auto, death of deceased due to the accident, age, occupation and income of

the deceased, dependency of the claimants and loss of dependency due to the death of the deceased etc. and the negligence of the rider of the motorcycle is the cause for the accident in the form of contributory or composite negligence. Therefore, the owner and Insurance Company of the motorcycle are necessary parties.

Evidence before the learned MACT:

8. Claimant No.1 was examined as P.W.1. He has stated about the relationship of the claimants with deceased and the death of the deceased due to the accident. During cross-examination, he has stated that his children are living separately and they are not dependents. He has denied the suggestion that the rider of the motor cycle was at fault.

9. One Chevuri Sivaparvathi was examined as P.W.2. She has stated about the negligence of the driver of the offending vehicle. She stated that she, her husband and the deceased were travelling on the motorcycle at the time of accident. She has denied the suggestion that the rider of the motorcycle was at fault.

10. For the respondent Insurance Company one J. Prasanthi Kumar, working as an Assistant in the Insurance Company was examined as R.W.1. He has stated that the driver of the offending vehicle was having non transport category

driving licence and claimed that the negligence of the deceased was the cause of the accident.

11. Further, one M. Suresh Babu, Senior Assistant in the Motor Vehicle Inspector office, Tenali was examined as R.W.2. He has stated that a person holding a non-transport category licence is entitled for a transport category licence only after holding a non-transport category licence for one year.

12. The claimants relied on Ex.A1-FIR, Ex.A2-Inquest Report, Ex.A3-Post-mortem Certificate, Ex.A4-Motor Vehicle Inspector's Report and Ex.A5-Charge Sheet.

13. The respondents relied on Ex.B1-Insurance Policy, Ex.B2-Driving Licence, Ex.B3-Notice to owner-cum-driver, Ex.B4- Acknowledgement from the driver. Ex.X1 is the Authorisation letter and Ex.X2 is the driving licence particulars.

Findings of the learned MACT:

On negligence:

14. Evidence of P.W.2 is sufficient to believe the negligence of the driver of the offending vehicle. The crime record corroborates the evidence of P.W.2. The negligence on the part of the driver of the auto is proved.

On liability:

15. The licence is valid from 29.11.2008 to 23.11.2028. Respondent No.2 / Insurance Company is not liable as Respondent No.1 committed breach,

particularly for want of a proper driving licence. The income of the deceased can be taken at Rs.20/- per day and Rs.73,000/- per annum as a servant maid and the claimants are entitled for Rs.87,500/- in all.

Arguments in the appeal:

For the claimants:

- 16(i). Compensation awarded is grossly inadequate.
- (ii). Taking income at Rs.20/- per day is not correct.
- (iii). Exoneration the respondent No.2 from liability is not correct.

For the Insurance Company:

- 17(i). The Insurance Company has been rightly exonerated from liability.
- (ii). The quantum of compensation awarded is just and reasonable.
- (iii). The claim is made under Section 163-A of the Motor Vehicles Act.

18. Perused the record. Thoughtful consideration is given to the arguments advanced by both sides.

Scope of the Appeal:

19. Though it is a claimants' appeal, since the learned MACT dismissed the claim against respondent No.2/Insurance Company, the liability of the respondents and the entitlement of the claimants for compensation both require consideration.

20. Now the points that arise for determination in this appeal are:

- 1) Whether the claimants are entitled for compensation against both the respondents?
- 2) What is the just and reasonable compensation to which the claimants are entitled and whether the compensation of Rs.87,500/- awarded by the learned MACT is just and reasonable?
- 3) What is the result of the appeal?

Point No.1:

21. The findings on this point involve discussion on the negligence on the part of the driver of the offending vehicle and the compliance with conditions of insurance policy etc.

Negligence:

Statutory Guidance:

22(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:

23. 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..”

Reasoning and Findings:

24. Ex.A1-FIR, Ex.A2-Inquest Report, Ex.A3-Post-mortem Certificate, Ex.A4-Motor Vehicle Inspector's Report and Ex.A5-Charge Sheet are indicating the accident, negligence and death of deceased due to the accident.

25. P.W.2-eye witness to the accident stated about the negligence of the driver of the auto / offending vehicle. The defence is that there was triple riding. Whether the triple riding is the cause for the accident and whether there was absence of negligence on the part of the auto driver require clarity. Auto driver is not summoned and examined. What is the result of criminal case pursuant to the charge sheet laid is not known. There is positive evidence of P.W.2 as to negligence of the driver of the auto.

¹ 2009 (13) SCC 530

26. The deceased merely travelled as a pillion rider. Even it was to be a case of composite negligence, every tortfeasor is fully liable to the victim. Therefore, the defence / escape is pressed by the Insurance Company is not available to it. The petition is filed under Section 163-A of the Motor Vehicles Act. Since Insurance Company/respondents invited contest on negligence and made the claimants to adduce evidence on negligence and made the Tribunal to give findings on negligence, it can be taken that the scope of Section 163-A of the Motor Vehicles Act is no more available as a defence to the Insurance Company.

Driving licence objection:

27. The other excuse relied on the Insurance Company is absence of proper driving licence, which has been gained the nod of the learned MACT. It is relevant to note that in respect of light motor vehicles, the objection of driving licence as to transport and non-transport categories is no longer res integra.

28. The defence as to want of transport endorsement does not merit any consideration in the context of judgments of the Hon'ble Supreme Court. The legal position as to a person holding of non-transport category driving licence of 'Light Motor Vehicle' driving transport vehicle has been addressed by the Hon'ble Apex Court in ***Mukund Dewangan vs. Oriental Insurance Company Limited***²

² (2016) 4 SCC 298

[Mukund Dewangan(2016)] and ***Mukund Dewangan vs. Oriental Insurance Company Limited***³ [Mukund Dewangan(2017)].

29. Further, the reference made on the point whether “a person holding a licence for a ‘Light Motor Vehicle’ class non transport can drive a ‘Transport Vehicle’ without a specific endorsement, provided the ‘Gross Vehicle Weight (GVW)’ of the vehicle does not exceed 7,500 Kgs?” is answered by the Hon’ble Apex Court in ***Bajaj Alliance General Insurance Company Limited vs. Rambha Devi and Others***⁴ at length and the observation are made under the caption of conclusions are as follows:

131. *Our conclusions following the above discussion are as under:—*

(I) A driver holding a license for Light Motor Vehicle (LMV) class, under Section 10(2)(d) for vehicles with a gross vehicle weight under 7,500 kg, is permitted to operate a ‘Transport Vehicle’ without needing additional authorization under Section 10(2)(e) of the MV Act specifically for the ‘Transport Vehicle’ class. For licensing purposes, LMVs and Transport Vehicles are not entirely separate classes. An overlap exists between the two. The special eligibility requirements will however continue to apply for, inter alia, e-carts, e-rickshaws, and vehicles carrying hazardous goods.

(II) The second part of Section 3(1), which emphasizes the necessity of a specific requirement to drive a ‘Transport Vehicle,’ does not supersede the definition of LMV provided in Section 2(21) of the MV Act.

(III) The additional eligibility criteria specified in the MV Act and MV Rules generally for driving ‘transport vehicles’ would apply only to those intending to operate vehicles with gross vehicle weight exceeding 7,500 kg i.e. ‘medium goods vehicle’, ‘medium passenger vehicle’, ‘heavy goods vehicle’ and ‘heavy passenger vehicle’.

³ (2019) 12 SCC 816

⁴ 2024 SCC Online SC 3183

(IV) The decision in Mukund Dewangan (2017) is upheld but for reasons as explained by us in this judgment. In the absence of any obtrusive omission, the decision is not per incuriam, even if certain provisions of the MV Act and MV Rules were not considered in the said judgment.

30. It is relevant to note that the evidence relating to the unladen weight of the vehicle in question is not placed by the Insurance Company. Further, if a person driving a transport category vehicle with non-transport endorsement, where the unladen weight of the vehicle is less than 7500 kgs, it will not entitle the Insurance Company to claim exoneration from the liability is the settled legal proposition, as per the Judgments referred above i.e. ***Mukund Dewangan vs. Oriental Insurance Company Limited*** [Mukund Dewangan(2016)] and ***Mukund Dewangan vs. Oriental Insurance Company Limited*** [Mukund Dewangan(2017)] and ***Bajaj Alliance General Insurance Company Limited vs. Rambha Devi and Others.***

Liability:

31. For the reasons stated above and upon looking from any angle, the exemption sought by the Insurance Company is found not tenable. Hence both the respondents are liable to pay compensation. The point is answered accordingly.

Point No.2:**Precedential Guidance:**

32(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.***⁵ 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. vs. 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% 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.

⁵ 2009 (6) SCC 121

⁶ 2017(16) SCC 680

(iii). Further in ***Magma General Insurance Company Ltd. vs. 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:

33. In ***Rajesh and others vs. Rajbir Singh and others***⁸, 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]

⁷ (2018) 18 SCC 130

⁸ (2013) 9 SCC 54

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.

Reasoning and Findings:

34. Deceased was working as coolie. The learned MACT taken the occupation of the deceased as a servant maid and taken the income at Rs.20/- per day. The deceased was aged about 50 years. However acceptance of income at Rs.20/- per day is not found convincing in the facts and circumstances of the case, particularly when the witnesses said that deceased was earning Rs.100/- per day. Neither Rs.100/- nor Rs.20/- can be accepted.

35. However, upon considering socio economic circumstances of the year 2009 in which the accident occurred, this Court finds that the income of the deceased can be taken at Rs.60/- per day and Rs.1,800/- per month as a servant maid. The income of the deceased can be safely accepted at Rs.2,000/- per month, including possible progress in income at least at the rate of 10%, which comes to Rs.24,000/- per annum. If $\frac{1}{3}^{\text{rd}}$ of the same is deducted towards the personal expenditure, the contribution of the deceased to the claimants comes to Rs.16,000/- per annum, which can be considered as the multiplicand. For the

age group of '50' years, the applicable multiplier is '13'. When the same is applied, the entitlement of the claimants under the head of loss of dependency comes to Rs.2,08,000/- (Rs.16,000/- x 13).

36. The relationship of the claimants is not disputed. There is no dependency for claimant Nos.2 to 4. But they are legal heirs. P.W.1 stated that his children are living separately. However, they are entitled to a share in the compensation under the head of loss of parental consortium and loss of emotional support etc., if any.

37. Therefore, the claimant Nos.2 to 4 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.

38. 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.73,000/-	Rs.2,08,000/-
(ii)	Loss of estate	Rs.2,500/-	Rs.15,000/-
(iii)	Loss of Consortium	Rs.10,000/-	Rs.1,60,000/- @ Rs.40,000/- to each claimant
(iv)	Funeral expenses	Rs.2,000/-	Rs.15,000/-
	Total compensation awarded	Rs.87,500/-	Rs.3,98,000/-
	Interest (per annum)	7.5%	6%

39. For the reasons aforesaid and in view of the discussion made above, the point No.3 framed is answered concluding that the claimants are entitled for compensation of Rs.3,98,000/- with interest at the rate of 6% per annum from the date of petition till the date of realization. The order and decree dated 25.10.2010 passed by the learned MACT in M.V.O.P.No.805 of 2009 require modification accordingly.

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

40. 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 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**⁹, 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.**¹⁰ at para 33 of the judgment, as follows:-

⁹ (2003) 2 SCC 274

“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**¹¹ 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.”

Point No.3:

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

- (i) The compensation awarded by the learned MACT in M.V.O.P.No.805 of 2009 at Rs.87,500/- with interest at the rate of 7.5% per annum is modified and enhanced to Rs.3,98,000/- with

¹⁰2020 (04) SCC 413

¹¹ (2019) 2 SCC 192

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/husband of the deceased is entitled for Rs.2,48,000/- with proportionate interest and costs.

(b) Claimant Nos.2 to 4/children of the deceased are entitled for Rs.50,000/- each with proportionate interest.

(iv) Respondents before the learned MACT 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 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 with clause (v)(a) above, the respondents 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.

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

Date:24.03.2026
Knr

A. HARI HARANADHA SARMA, J

HON'BLE SRI JUSTICE A. HARI HARANADHA SARMA

M.A.C.M.A.No.1189 of 2012

24.03.2026

Knr