

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

FRIDAY, THE THIRTEENTH DAY OF JUNE
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE NARSING RAO NANDIKONDA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 510 OF 2020

Appeal filed under Section 173 of Motor Vehicle Act, against order and decree dated 23.2.2006 made in O.P.No.211 of 2001 on the file of the Court of the Motor Accident Tribunal-cum-II Addl. District and Sessions Judge, Mahabubnagar, for the following among other.

Between:

1. Kurva Krishnaiah, S/o K.Jangaiah, aged about 41 years, R/o Gundoor Village, Kalwakurthy Mandal, Mahaboobnagar Dist.
2. Kurva Nagamani, D/o K.Krishnaiah, aged 12 years, Minor, R/o Gundoor Village, Kalwakurthy Mandal, Mahaboobnagar Dist., being rep.by the 1st appellant

...APPELLANTS / PETITIONERS

AND

1. M.Chandra Sekhar Reddy, S/o M.Madhava Reddy, Owner Auto bearing No.AP10-U-3900, R/o 11-1-348/4/A, Seethaphalmandi Stteet, Secunderabad.
2. The Oriental Insurance Company Ltd, rep.by its Divisional Manager, Divisional Office, No.111, Kare Trade Centre, M.G.Road, Secunderabad.

...RESPONDENTS/RESPONDENTS

Counsel for the Appellants : SRI T KUMAR BABU

Counsel for the Respondent No. : -

Counsel for the Respondent No.2 : BATHULA RAJ KIRAN

The Court made the following: JUDGMENT

THE HON'BLE SRI JUSTICE NARSING RAO NANDIKONDA

M.A.C.M.A.No.510 of 2020

JUDGMENT:

This M.A.C.M.A. is filed under Section 173 of the Motor Vehicles Act, 1988 by the appellants/petitioner aggrieved by the Award and decree dated 23.02.2006 passed in O.P.No.211 of 2001 by the Motor Accident Claims Tribunal-Cum-II Additional District Judge, Mahabubnagar, (for short, "the Tribunal") seeking enhancement of the compensation.

2. For convenience, the parties will be hereinafter referred to as they are arrayed before the Tribunal.

3. Brief facts of the case are as follows :

On 30.08.2000, the deceased and others were travelling in an Auto bearing No.AP-10-U-3900 and when the auto stopped, the deceased was getting down from the auto, the driver of the auto started the auto in a rash and negligent manner as a result, the deceased fell down and the auto ran over the deceased. Immediately, the deceased was shifted to Osmania General Hospital and she was died on 03.09.2000 while undergoing treatment. The Police registered a case against the

driver of the offending vehicle. The appellants/petitioners claimed an amount of Rs.2,25,000/- as compensation for the death of the deceased under various heads.

4. Before the learned Tribunal, respondent No.1- driver of the auto remained *ex-parte*. Respondent No.2 - The Oriental Insurance Company Limited, file counter-affidavit, denying all the averments made in the claim petition, including the manner in which the accident took place, age, avocation and income of the deceased and further contended that the compensation claimed is exorbitant and prayed to dismiss the claim petition.

5. Basing on the pleadings and averments made by both the learned counsels, the learned Tribunal framed the following issues which reads as under:

i) Whether the deceased died in the accident occurred on 30-8-2000 due to rash and negligent driving of the driver of the auto bearing No.AP-10-U-3900?

ii) Whether the petitioners are entitled to the compensation?

iii) To what relief

6. To prove the petitioner's case, PWs.1 & 2 were examined and marked Exs.A1 to A8. No oral evidence was adduced on

behalf of the respondents, but Ex.B1- Driving Licence was marked on behalf of Respondent No.2.

7. After considering the oral and documentary evidence available on record, the Tribunal awarded an amount of **Rs.1,50,000/-** with interest @ 7.5% per annum. Being unsatisfied and aggrieved with the Award compensation granted by the learned Tribunal, the petitioners/appellants, who are the husband and daughter of the deceased, filed the present appeal.

8. Learned counsel for the appellants/claimants submits that there is no dispute with regard to accident, injuries sustained by the deceased and the death of the deceased. Learned counsel for the petitioners has contended that the deceased was aged about 30 years at the time of the accident and the petitioner claimed that the deceased was earning Rs.3000/- per month by doing labour work. The learned Tribunal having accepted the fact that deceased died due to rash and negligent driving of the auto driver, but without considering the evidence in proper manner with regard to income of the deceased, the learned Tribunal has granted

compensation of Rs.1,60,000/-, however the same was rounded off to Rs.1,50,000/- in all, therefore, the amount awarded by the learned Tribunal is very meager and unjustifiable.

9. Learned counsel for the respondent No.2-The Oriental Insurance Company Limited submits that after considering the entire evidence available on record, the Tribunal has awarded just compensation, which needs no interference.

10. Heard both sides and perused the record.

11. Admittedly, the respondents have not filed cross-appeal against the Award passed by the learned Tribunal. As such, there is no dispute regarding liability of the respondents, age of the deceased and accident. The only point which would arouse before this Court in this appeal is that:

i) Whether the petitioners are entitled for the enhanced compensation, if so, to what extent?

Point No.1:

12. Admittedly, the deceased died due to injuries sustained by her in the accident occurred on 30.08.2000. The petitioners claimed that the deceased used to earn Rs.3,000/- per month,

however, no income certificate has been filed. But looking at the records available and the averments made by both the learned counsels before this Court, it is held that the deceased was labourer which is neither disputed nor rebutted by the learned counsel for the respondent No.2. Hence, consider the decision of the Hon'ble Supreme Court in the case of **Latha Wadhwa vs. State of Bihar**¹ wherein the Hon'ble Apex Court held that even when there is no proof of income and earnings, the income can be reasonably estimated by the Court and can be assessed considering the ground realities.

13. Hence, considering the ground realities and facts of the case, this Court is of the considered view that the notional income of the deceased can be taken as Rs.100/- per day which even the unskilled or daily labourer can easily earned. Hence, the monthly income of the deceased can be notionally taken as Rs.3,000/- per month. Apart from that, as per the decision of Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others**² and considering the age of the deceased as 30 years, additional

1 2001(8) SCC 197
2 2017 ACJ 2700

40% of the income has to be added towards future prospects to the monthly income of the deceased. Therefore, the monthly income of the deceased would come to Rs.4,200/- (Rs.3,000/- + Rs.1,200/-). The annual income of the deceased would come to Rs.50,400/- (Rs.4,200/- X 12) and, out of which, 1/3 has to be deducted towards the personal expenses of the deceased as the dependants are two in number. Then the actual annual income would come to Rs.33,600/- (Rs.50,400/- (-) Rs.16,800/-). As per the column No.4 of schedule fixed in the judgment of the Apex Court in **Sarla Verma v. Delhi Transport Corporation**³, and considering the age of the deceased as 30 years, the appropriate multiplier applicable for the deceased's age is '17'. Thus, the total loss of dependency would come to Rs.5,71,200/- (33,600/- x 17).

14. The appellants/claimants are further entitled to Rs.18,150/- (Rs.15,000/- + 10% + 10%) towards loss of estate and Rs.18,150/- (Rs.15,000/- + 10% + 10%) towards funeral expenses, as per **Pranay Sethi's Judgment** (cited supra).

³ 2009 ACJ 1298 (SC)

15. Further, considering the appellant No.1 being the husband of deceased, appellant No.1 is entitled to a sum of Rs.48,400/- under the head of 'loss of spousal consortium' as per **Pranay Sethi's Judgment** (cited supra).

16. Appellant No.2 being daughter of the deceased, the appellant No.2 is entitled for compensation to a sum of Rs.48,400/- towards 'loss of parental consortium', as per **Magma General Insurance Company Limited Vs. Nanu Ram alis Chuhru Ram⁴**.

17. In **Sarla Verma's case (cited above)**, the Hon'ble Apex Court, while elaborating the concept of 'just compensation' observed as under:

"Post compensation is adequate compensation which is fair and equitable on the facts and circumstances of the case, to make good the loss suffered as a result of the wrong, as far as money can do so, by applying, the well settled principles relating to award of compensation. It is not intended to be a bonanza, largesse or source of profit."

18. On overall re-appreciation of the pleadings material on record and the law laid down by the Hon'ble Supreme Court in the aforesaid cited decisions. I am of the opinion that the

⁴ 2018 (18) SCC 130

claimants are entitled to enhancement of compensation as modified and recalculated as above and given in the table for easy reference

19. Considering the above assessment made by this Court, appellants would be entitled to as follows:

i)	Annual Income (of the deceased) Rs.3,000/- X 12 = Rs.36,000/-	
ii)	Total Annual Income = Annual Income + Future Prospects (Annual Income X 40%) = Rs.36,000/- + Rs.14,400/- = Rs.50,400/-	
iii)	Annual Dependency = Total Annual Income - 1/3 deduction towards personal expenses of the deceased = Rs.50,400/- (-) Rs.16,800/- = Rs.33,600/-	
iv)	Total Dependency = Annual Dependency x Applied Multiplier = Rs.33,600- x 17 =	Rs.5,71,200/-
v)	Claimants' entitlement towards conventional heads = Loss of Estate + Funeral Expenses + loss of Spousal Consortium + loss of Parental Consortium Rs.18,150/- + Rs.18,150/- + Rs.48,400/- + Rs.48,400/- =	Rs.1,33,100/-
	Total	Rs.7,04,300/-

20. By considering the observation of Hon'ble Apex Court in **Nagappa Vs.Gurudayal Singh**⁵, the compensation can be awarded more than the claimed amount". Therefore, the petitioners/appellants/claimants are entitled to the enhanced

⁵ 2003 (2) SCC 274

compensation of **Rs.7,04,300/-** as against the awarded amount of Rs.1,50,000/- by the learned Tribunal.

21. Considering the circumstances of the case the learned Tribunal has rightly awarded the rate of interest at 7.5 % per annum and the same needs no interference by this Court. Hence, this Court is of the opinion that the petitioners/claimants are entitled to interest @ 7.5 % on the enhanced amount.

22. Hence, the claimants are entitled for an enhanced compensation of **Rs.7,04,300/-**. Accordingly, the M.A.C.M.A is allowed, enhancing the compensation from Rs. 1,50,000/- to **Rs.7,04,300/-** with interest at the rate @ 7.5 % p.a. on the enhanced amount from the date of petition till the date of realization. The respondents are directed to deposit the said amount together with costs and interest after giving due credit to the amount already deposited, if any, within a period of two months from the date of receipt of a copy of this judgment. The compensation amount shall be apportioned among the appellants/claimants in the same manner and ratio as ordered by the learned Tribunal. However, the petitioners are directed

to pay the Deficit Court Fee on the enhanced amount within two months from the date of receipt of a copy of this judgment.

There shall be no order as to costs.

23. Miscellaneous petitions, if any are pending, shall stand closed.

SD/- MOHD. ISMAIL
DEPUTY REGISTRAR

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SECTION OFFICER

To,

1. The Motor Accident Tribunal-cum-II Addl. District and Sessions Judge, Mahabubnagar, Telangana.
2. One CC to SRI. T KUMAR BABU Advocate [OPUC]
3. One CC to SRI. BATHULA RAJ KIRAN Advocate [OPUC]
4. Two CD Copies

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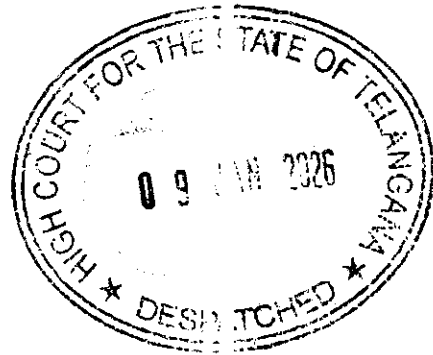
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HIGH COURT

DATED:13/06/2025

JUDGMENT

MACMA.No.510 of 2020



ALLOWING THE MACMA WITHOUT COSTS

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**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

FRIDAY, THE THIRTEENTH DAY OF JUNE
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE NARSING RAO NANDIKONDA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 510 OF 2020

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2. Kurva Nagamani, D/o K.Krishnaiah, aged 12 years, Minor, R/o Gundoor Village, Kalwakurthy Mandal, Mahaboobnagar Dist., being rep.by the 1st appellant

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1. M.Chandra Sekhar Reddy, S/o M.Madhava Reddy, Owner Auto bearing No.AP10-U-3900, R/o 11-1-348/4/A, Seethaphalmandi Street, Secunderabad.
2. The Oriental Insurance Company Ltd, rep.by its Divisional Manager, Divisional Office, No.111, Kare Trade Centre, M.G.Road, Secunderabad.

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Appeal filed under Section 173 of Motor Vehicle Act, against order and decree dated 23.2.2006 made in O.P.No.211 of 2001 on the file of the Court of the Motor Accident Tribunal-cum-II Addl. District and Sessions Judge, Mahabubnagar, for the following among other.

This appeal coming on for hearing and upon perusing the grounds of appeal, the judgment and Decree of the Lower Court and the material papers in the case and upon hearing the arguments of SRI T KUMAR BABU, Advocate for the Appellant and none appeared for the Respondent No.1 and SRI BATHULA RAJ KIRAN appeared for Respondent No.2.

This Court doth Order and Decree as follows:

1. That the Motor Accident Civil Miscellaneous Appeal be and hereby allowed.
2. That the compensation amount awarded by the Tribunal be and hereby enhanced from Rs.1,50,000/- to Rs.7,04,300/- with interest at the rate @ 7.5 % p.a. on the enhanced amount from the date of petition till the date of realization.
3. That the respondents are be and hereby directed to deposit the amount together with costs and interest after giving due credit to the amount already deposited, if any, within a period of two months from the date of receipt of a copy of this judgment.
4. That the compensation amount be and is hereby shall be apportioned among the appellants/claimants in the same manner and ratio as ordered by the learned Tribunal.
5. That the petitioners are be and hereby directed to pay the Deficit Court Fee on the enhanced amount within two months from the date of receipt of a copy of this judgment.
6. That there shall be no order as to costs in this appeal.

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**MD/- MOHD. ISMAIL
DEPUTY REGISTRAR**

SECTION OFFICER

To

1. The Motor Accident Tribunal-cum-II Addl. District and Sessions Judge,
Mahabubnagar, Telangana.
2. Two CD Copies.

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HIGH COURT

DATED:13/06/2025

DECREE

MACMA.No.510 of 2020

ALLOWING THE MACMA WITHOUT COSTS

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