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APHC010379072012



**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: 3012/2012

Between:

1. THE DEPOT MANAGER, APSRTC & ANOTHER, PADERU (VILL & M)
DIST. VISAKHAPATNAM, A.P.
2. CHAIRMAN-CUM - MANAGING DIRECTOR, APSRTC, MUSHEERABAD,
HYDERABAD

...APPELLANT(S)

AND

1. SIRIPURAPU KOWSALAYA 3 OTHERS, W/O LAKSHMINARAYANA R/O
D.NO. 58-15-82, SANTHINAGAR, NAD, VISAKHAPATNAM
2. SIRIPURAPU RAJALAKSHMI, D/O LAKSHMINARAYANA, MINOR, REP.
BY 1ST APPELLANT
3. SIRIPURAPU GOPALA KRISHNA, S/O. VENKATRATNAM, ALL R/O
D.NO. 58-15-82, SANTHINAGAR, NAD, VISAKHAPATNAM, A.P.
4. PENNGANDE CHINNODU, NOT NECESSARY, DRIVER

...RESPONDENT(S):

Appeal filed under Order 41 of CPC praying that the Highcourt may be pleased toto set aside the Order & Decree dt. 21-10-2011 passed in MVOP No. 41 of 2011 on the file of Motor Accidents Claims Tribunal IV Addl. District Judge, Visakhapatnam and pass

IA NO: 1 OF 2012(MACMAMP 2833 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 condone the delay of 65 days in filing the present appeal against MVOP No. 41 of 2011 on the file of the Motor Accidents Claims Tribunal IV Addl. District Judge, Visakhapatnam and pass

IA NO: 2 OF 2012(MACMAMP 3356 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 order and decree dt. 21/10/2011 passed in MVOP.no. 41 of 2011 by MACT-IV Additional District Judge, Visakhapatnam, pending disposal of the CMA

IA NO: 3 OF 2012(MACMAMP 5470 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 vacate the interim stay granted by this Hon'ble Court in MACMA MP NO. 3356 of 2012 in MACMASR No. 19701 of 2012 dated 19-6-2012 on the file of this Hon'ble Court and pass

IA NO: 1 OF 2013(MACMAMP 4606 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 to declared as a major and discharge from the respondent No. 4 herein as a mother and natural guardian and pass

IA NO: 2 OF 2013(MACMAMP 4607 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 to permit me to withdrawn of my share earlier this Hon'ble Court granted stay on

condition in the MACMAMP No. 3356 of 2012 in MACMASR No. 19701 of 2012 dated and pass

Counsel for the Appellant(S):

1.K SRINIVASA PRASAD SC For APSRTC

Counsel for the Respondent(S):

1.JAYANTI S C SEKHAR

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 837/2014

Between:

- 1.SIRIPOURAPU KOWSALAYA & 2 OTHERS, W/O LATE LAKSHMINARAYANA, HINDU, HOUSEWIFE R/O D.NO. 58-15-82, SANTHINAGAR, NAD, VISAKHAPATNAM.
- 2.SIRIPURAPU RAJYALAKSHMI, D/O LATE LAKSHMINARAYANA, HINDU, MINOR, REP. BY HER MOTHER I.E, 1ST PETITIONER AS NATURAL GUARDIAN AND NEXT FRIEND. R/O D.NO. 58-15-82, SANTHINAGAR, NAD, VISAKHAPATNAM.
- 3.SIRIPURAPU GOPALAKRISHNA, S/O LATE VENKATARATNAM, HINDU, R/O D.NO. 58-15-82, SANTHINAGAR, NAD, VISAKHAPATNAM.

...APPELLANT(S)

AND

- 1.PANUYGONDA CHINNODU 2 OTHERS, S/O LATE DEMUDU, DRIVER R/O VENKATAPURAM VILLAGE, MUNAGAPAKA (M) VISAKHAPATNAM
- 2.THE DEPOT MANAGER APSRTC, PADERU DEPOT, PADERU (V & M) VISAKHAPATNAM DISTRICT.
- 3.THE CHAIRMAN CUM MANAGING DIRECTOR, APSRTC, CROSS ROAD, MUSHEERABAD, HYDERABAD (R1 IS NOT A NECESSARY PARTY AND ALSO THIS APPEAL GROUNDS COPIES ISSUED TO STANDING COUNSEL. (R2 IS NOT NECESSARY PARTY)

...RESPONDENT(S):

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

IA NO: 1 OF 2012(MACMAMP 6266 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 condone the delay of 33 days in representing the above case in MACMA SR No. 28439 of 2012 and pass

IA NO: 2 OF 2012(MACMAMP 6267 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 dispense with the certified copy of the decree and order in OP No. 41 of 2011 passed on 21-10-2011 on the file of in the Court of the Motor Accident Claims Tribunal Cum IV Addl. District, Visakhapatnam and to pass

IA NO: 3 OF 2012(MACMAMP 6561 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 condone the delay of 139 days in filing the appeal against OP No. 41 of 2011 passed on 21.10.2011 on the file of In the court of the Motor Accident Claims Tribunal-cum-IV Addl. district Judge, Visakhapatnam and to pass

Counsel for the Appellant(S):

1.JAYANTI S C SEKHAR

Counsel for the Respondent(S):

1.K SRINIVASA PRASAD SC For APSRTC

2.K. SARALA REDDY(SC FOR APSRTC PNV)

3..

The Court made the following:

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA**M.A.C.M.A.Nos.3012 of 2012 and 837 of 2014****COMMON JUDGMENT:****Introductory:**

1. Both M.A.C.M.A.Nos.3012 of 2012 and 837 of 2014 are directed against the order and decree dated 21.10.2011 passed in M.O.P.No.41 of 2011 by the Chairman, Motor Accidents Claims Tribunal-cum-IV Additional District Judge, Visakhapatnam (for short “the learned MACT”).
2. The respondents before the learned MACT, representing the A.P.S.R.T.C., filed M.A.C.M.A.No.3012 of 2012 disputing the liability and quantum of compensation, whereas the claimants before the learned MACT filed M.A.C.M.A. No.837 of 2014 seeking enhancement of compensation.
3. The driver of the A.P.S.R.T.C. bus bearing No.AP 28 Z 2579 (hereinafter referred to as “the offending vehicle”), who is arrayed as respondent No.1 before the learned MACT, is a proforma party in these appeals. He remained *ex parte* before the learned MACT.
4. For the sake of convenience, the parties will be hereinafter referred to as “the claimants” and “the respondents”, with reference to their status before the learned MACT.

Case of the claimants:

5(i). One Siripurapu Lakshminarayana (hereinafter referred to as “the deceased”) is the husband of claimant No.1, father of claimant No.2 and son of claimant No.3.

(ii). On 17.05.2010, when the deceased was travelling in a jeep from Chodavaram to Paderu, near Garikabandha check-post within the jurisdiction of V. Madula Police Station, at about 1.30 p.m., the offending vehicle, driven by its driver in a rash and negligent manner, came from the opposite direction, dashed against the jeep and caused the accident. As a result, the deceased sustained grievous injuries. He was immediately shifted to RCM Hospital at V. Madugula and thereafter shifted to K.G. Hospital and later succumbed to the injuries.

(iii). A case in Crime No. 32 of 2010 was registered against the driver of the offending vehicle and subsequently a charge sheet was laid for the offences under Sections 304-A, 337 and 338 IPC.

(iv). The deceased was aged about 45 years and was working as a Supervisor in BHL-HES JV, earning about Rs.12,800/- per month, and was also doing private contract works and thereby contributing his all income to the maintenance of the family. Due to his death, the claimants lost their sole breadwinner and everything. Hence, they are entitled to just and reasonable compensation.

Case of the Respondents:

6(i). The petitioners shall prove the pleaded accident, negligence of the driver of the offending vehicle, death of the deceased due to the accident, age, occupation and income of the deceased and dependency of the claimants.

(ii). The accident occurred due to negligence of the driver of the jeep. Therefore the claimants are not entitled to compensation from the respondents.

(iii). The age, occupation and income of the deceased claimed are baseless and the compensation claimed is excessive.

Evidence before the learned MACT:

7(i). Claimant No.1 was examined as P.W.1. One Vanthala Krishna Rao, an eye witness was examined as P.W.2 and K. Jagadeesh was examined as P.W.3 to prove the occupation and income of the deceased.

(ii). Ex.A1- FIR, Ex.A2-Post mortem certificate, Ex.A3-M.V.I. Report, Ex.A4-Charge Sheet, Ex.A5-Inquest Report, Ex.A6-Salary Certificate and Ex.A7-certificate indicating that the deceased completed ITI were marked on behalf of the claimants and Ex.X1-Authorization was also marked.

(iii). No oral and documentary evidence was adduced on behalf of the respondents.

Findings of the learned MACT:

8. The learned MACT, considering the evidence, held the issue relating to negligence and liability of the respondents / A.P.S.R.T.C. in favour of the claimants and against the respondents. Accepted the income of the deceased at Rs.6,000/- per month. After deducting 1/3rd towards personal expenditure and applying the multiplier '15', found the entitlement of claimants at Rs.7,70,000/- under various heads.

Arguments in the appeals:**For the claimants:**

9. The compensation awarded at Rs.7,70,000/- as against Rs.15,00,000/- claimed is inadequate and the claimants are entitled for more compensation than what is claimed and that there is no bar for awarding more compensation than what is claimed.

For the respondents(A.P.S.R.T.C):

10(i). The learned MACT failed to properly consider the issue of negligence and the defence of non-joinder of necessary parties viz. the driver, owner and Insurance Company of the jeep involved in the accident.

(ii). Further, income taken at Rs.6,000/- per month is baseless and the multiplier applicable was also not properly considered.

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

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

1) Whether the negligence of the driver of the offending vehicle is properly proved and whether the age, occupation and income of the deceased are correctly appreciated by the learned MACT in quantifying the compensation to which the claimants are entitled and the liability therefor?

2) Whether the order and decree dated 21.10.2011 passed by the learned MACT in M.O.P.No.41 of 2011 are sustainable or require any interference?

3) What is the result of the appeal in M.A.C.M.A.No.3012 of 2012?

4) What is the result of the appeal in M.A.C.M.A.No.837 of 2014?

Point No.1:

Negligence:

Statutory Guidance:

13(i). As per Section 176 of the Motor Vehicles Act, the State Governments are entitled to make rules for the purpose of carrying into effect 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:

14. 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..”

Analysis and findings:

15. In the light of the statutory and precedential guidance, upon consideration of the evidence of P.W.2 (eye witness) and Ex.A1-FIR, Ex.A2-Post-mortem Certificate, Ex.A3-M.V.I. Report, Ex.A4-Charge Sheet and Ex.A5-Inquest Report, particularly in the absence of any evidence on behalf of the respondents / A.P.S.R.T.C, it is found that the claimants are able to show the negligence of the driver of the offending vehicle. The findings of the learned MACT in that regard require no interference.

Quantification of Compensation and Liability:

Precedential Guidance-Quantum:

16(i). For having uniformity of practice and consistency in awarding just compensation, the Hon'ble Apex Court provided guidelines as to adoption of

¹ 2009 (13) SCC 530

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.

(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.

² 2009 (6) SCC 121

³ 2017(16) SCC 680

⁴ (2018) 18 SCC 130

Just Compensation:

17. 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:

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.

⁵ (2013) 9 SCC 54

Analysis and findings:

18. As per Ex.A2-Post-mortem Certificate and Ex.A5-Inquest Report, the age of the deceased is '45' years.

19. As per the evidence of P.W.3, an independent witness, the deceased was working as office assistant and was paid Rs.12,800/- as salary. P.W.3 has also confirmed about the Ex.A6 and Ex.A7 documents also.

20(i). Ex.A6 is the Salary Certificate indicating that the deceased worked at a railway work site. Ex.A7 is the certificate indicating that the deceased completed ITI training.

(ii). The cross examination of P.W.3 did not materially dilute his evidence, much except throwing suspicion for want of vouchers.

(iii). The payment under Ex.A6 is not through a bank account and it is not in the form of a Salary Certificate etc. But, it is the general statement. The claimants are able to show that the deceased has completed ITI. With the evidence of P.W.1 and P.W.3 and upon considering Ex.A6 and Ex.A7, one can say that the deceased was engaged in some occupation at the work site but what amount he was exactly drawing is not clear. However, guess work is permissible with reference to age etc. of the deceased.

21. Upon considering the socio-economic circumstances to which the deceased hails and the year of accident being 2010, this Court finds that the income of the deceased can be safely taken at Rs.8,000/- per month and 25%

can be added towards future prospects, whereby the income of the deceased can be taken at Rs.10,000/- per month for the purpose of quantifying the compensation, which comes to Rs.1,20,000/- per annum. If 1/3rd of the same is deducted towards the personal expenditure, the contribution of the deceased to the claimants comes to Rs.80,000/- per annum, which can be considered as the multiplicand. For the age group of '45' years, the applicable multiplier as per the ratio laid down in ***Sarla Verma (Smt.) and Ors. Vs. Delhi Transport Corporation and Anr.*** is '14'. When the same is applied, the entitlement of the claimants under the head of loss of dependency comes to Rs.11,20,000/- (Rs.80,000/- x 14).

22. Further, the claimants are entitled for compensation under the conventional heads i.e. Rs.40,000/- to each claimant towards loss of consortium (spousal, parental and filial), Rs.15,000/- towards funeral expenditure and Rs.15,000/- towards loss of estate. Hence, the total entitlement of the claimants comes to Rs.12,70,000/-.

Liability:

23. There is no dispute about the employment of the driver and the ownership of the offending vehicle by the respondents. Accordingly, all the respondents are liable to pay the compensation. The Point framed is answered concluding that the claimants are entitled for Rs.12,70,000/- and that all the respondents are liable to pay the compensation.

Point No.2:

24. 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.7,20,000/-	Rs.11,20,000/-
(ii)	Loss of estate	Rs.15,000/-	Rs.15,000/-
(iii)	Loss of Consortium	Rs.15,000/- @ Claimant No.1	Rs.1,20,000/- @ Rs.40,000/- to each claimant
(iv)	Funeral expenses	Rs.5,000/-	Rs.15,000/-
(v)	Loss of love and affection	Rs.15,000/-	-Nil-
	Total compensation awarded	Rs.7,70,000/-	Rs.12,70,000/-
	Interest (per annum)	7.5%	7.5%

25. 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.12,70,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization. The order and decree dated 21.10.2011 passed by the learned MACT in M.O.P.No.41 of 2011 require modification accordingly.

Point Nos.3 and 4:

26. In the result,

- (1) The appeal filed by the A.P.S.R.T.C. vide M.A.C.M.A.No.3012 of 2012 is dismissed.

(2) The appeal filed by the claimants *vide* M.A.C.M.A.No.837 of 2014 is allowed-in-part as follows:

(i) Compensation awarded by the learned MACT in M.O.P.No.41 of 2011 at Rs.7,70,000/- with interest at the rate of 7.5% per annum is modified and enhanced to Rs.12,70,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization.

(ii) **Apportionment:**

(a) Claimant No.1/wife of the deceased is entitled to Rs.5,70,000/- with proportionate interest and costs.

(b) Claimant No.2/daughter of the deceased is entitled to Rs.4,00,000/- with proportionate interest.

(c) Claimant No.3/father of the deceased is entitled to Rs.3,00,000/- with proportionate interest.

(iii) Respondents before the learned MACT are jointly and severally liable to pay the compensation.

(iv) 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 (iv)(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.

(3) There shall be no order as to costs, in the appeals.

27. As a sequel, miscellaneous petitions, if any, pending in these appeals shall stand closed.

A. HARI HARANADHA SARMA, J

Date:24.03.2026

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HON'BLE SRI JUSTICE A. HARI HARANADHA SARMA

M.A.C.M.A.Nos.3012 of 2012 & 837 of 2014

24.03.2026

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