

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

* * * *

M.A.C.M.A.NO.315 OF 2021

Between:

Smt. Matur Laxmi @ Mudugula Laxmi

...Appellant/Claimant

And

Mr. Chinta Naresh and others

... Respondents

JUDGMENT PRONOUNCED ON: 24.04.2025

HONOURABLE SMT. JUSTICE TIRUMALA DEVI EADA

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? : Yes/No
2. Whether the copies of judgment may be
Marked to Law Reporters/Journals? : Yes/No
3. Whether His Lordship wishes to
see the fair copy of the Judgment? : Yes/No

***HONOURABLE SMT. JUSTICE TIRUMALA DEVI EADA**

+ M.A.C.M.A.NO.315 OF 2021

% Dated 24.04.2025

Between:

Smt. Matur Laxmi @ Mudugula Laxmi

...Appellant/Claimant

And

Mr. Chinta Naresh and others

... Respondents

! Counsel for the Petitioner : Sri C.M.Prakash

^Counsel for Respondent No.2: Sri Soma Harinath Reddy

<Gist :

>Head Note :

? Cases referred

1. (2011) 12 SCC 236
2. AIR 2017 SCC 5157
3. 32009 (6) SCC 121
4. 2003 (6) ALT 300 (S.B)
5. 2023 ACJ 623

HONOURABLE SMT. JUSTICE TIRUMALA DEVI EADA

M.A.C.M.A.NO.315 OF 2021

JUDGMENT:

This appeal is filed by the claimant aggrieved by the order and Decree dated 19.01.2021 in M.V.O.P.No.720 of 2017 passed by the Chairman, Motor Accidents Claims Tribunal-Cum-Principal District Judge, Ranga Reddy District, L.B.Nagar, Hyderabad (for short “the Tribunal”).

2. For convenience and clarity, the parties herein are referred to as they were arrayed before the Tribunal.

3. The case of the petitioner before the Tribunal is that on 03.05.2015 at about 9.30 A.M. the deceased was going on a Tractor (Water tanker) bearing No.AP-29-V-9456 and 9455 in order to go to Dammaiguda for attending work on water tanker and when they reached near Dammaiguda at about 9.30 A.M., the driver of water tanker drove the vehicle in a rash and negligent manner at a high speed, due to which the water tanker turned turtle and the deceased sustained injuries to his left hand and legs and blunt injury in the stomach. He was immediately shifted to Gandhi Hospital, Secunderabad and while undergoing treatment, he succumbed to injuries on 18.05.2015. Thus , the petitioner sought a compensation of Rs.15,00,000/-.

4. Respondent Nos.1 and 2 remained *ex-parte*. Respondent No.3/Insurance Company filed its counter denying the occurrence of the accident, age, income and occupation of the deceased and further contended that the driver of the water tanker did not have valid driving license on the date of accident and that their company is not liable to pay any compensation.

5. Based on the rival pleadings of the parties, the Tribunal has framed the following issues for trial:

- 1) *Whether the accident occurred on 03.05.2015 at about 09.30 A.M. while deceased was proceeding on tractor to Dammaiguda for attending work on water tanker was due to rash, negligent and high speed driving of water tanker bearing No.AP-29-V-9455 AND 9456 by its driver?*
- 2) *Whether the petitioner is entitled for compensation and If so, to what quantum and from whom?*
- 3) *To what relief?*

6. To prove their case, the petitioner got examined PWs.1 and 2 and got marked Exs.A1 to A6. On behalf of respondent No.3 RW.1 was examined and Ex.B1 was marked.

7. Based on the evidence on record, the Tribunal has granted a compensation of Rs.3,00,000/- as against the claim of Rs.15,00,000/. Aggrieved by the same, the petitioner has preferred the present appeal seeking enhancement.

8. Heard Sri C. M. Prakash, learned counsel for the appellant and Sri Soma Harinath Reddy, learned counsel for respondent No.2.

9. Learned counsel for the appellant has submitted that the Tribunal has awarded a very meager amount of compensation. He further submitted that the Tribunal failed to consider the principles laid down by the Hon'ble Apex Court and he further submitted that the deceased was an agricultural labourer, earning an amount of Rs.10,000/- per month but the Tribunal has taken the income of deceased to be very meager i.e., Rs.3,000/- per month and has awarded very less amounts under various heads. He further submitted that the Tribunal has wrongly held that the owner and insurer of the crime vehicle are liable to pay compensation and that even if the driver did not have any valid license, the Tribunal ought to have ordered for pay and recovery.

10. Learned counsel for respondents has submitted that the principle laid down in **Ramachandrappa's case** by the Hon'ble Apex Court with regard to earnings to be taken in case of labourers who do not have any proof may be followed. He further submitted that the petitioner was travelling on the water tanker as a gratuitous passenger and that the insurance Company is not liable to pay any compensation. Therefore, he prayed to exonerate the insurance company.

11. Based on the above rival contentions, this Court frames the following points for determination:

- 1 *Whether the claimants are entitled for enhancement of compensation? If so to what extent?*
- 2 *Whether the Insurance Company is liable to pay compensation?*
- 3 *Whether the order and decree of the Tribunal need any interference?*
- 4 *To what relief?*

12. POINT NO.1:

a). The appellant herein is aggrieved by the quantum of compensation granted by the Tribunal. It is asserted by PW1 that the deceased worked as Agriculture labourer and was earning Rs.10,000/- per month. No proof can be expected in this regard and some amount of guess work is required to assess the income of the deceased. In ***Ramachandrappa Vs. Manager, Royal Sundaram Alliance Insurance Company Limited***¹, the Apex Court has held that in the absence of any proof of income with regard to a labourer, Rs.4,500/- per month can be safely taken as the income. In the present case, the deceased was going as a labourer on the water tanker as per the contention of the claim petitioners. Therefore, on a reasonable hypothesis and in view of the principle laid down in ***Ramachandrappas's case***, the monthly income of the deceased is assessed as Rs.4,500/- per month.

b). As per the dicta laid down in ***National Insurance Company Limited Vs. Pranay Sethi & Others***², 40% of the

¹(2011) 12 SCC 236

² AIR 2017 SCC 5157

income needs to be added towards future prospects. As the deceased is aged 37 years, adding 40% towards future prospects would give Rs.6,300/- ($\text{Rs.4,500/-} \times 40/100 = \text{Rs.1,800/-}$) per month, which comes to $\text{Rs.6,300/-} \times 12 = \text{Rs.75,600/-}$ per annum.

c). The number of claimant herein is one i.e. wife of the deceased. In case of bachelor the deduction is taken as 50%. But the deceased is a married man who left behind his wife as a claimant. Thus $1/3^{\text{rd}}$ deduction has to be made in the income of the deceased. Therefore, this would come upto Rs.50,400/- ($\text{Rs.75,600/-} - \text{Rs.25,200/-}$).

d). The Post Mortem Examination report filed under Ex.A4 reveals the age of the deceased as 37 years. No other proof is filed in this regard. Therefore, the age as revealed under Ex.A4 is taken into consideration. The multiplier should be chosen with regard to the age of the deceased, as per column No.4 of the table given in ***Sarla Verma v. Delhi Transport Corporation***³. The deceased being aged 37 years, the appropriate multiplier to be applied is '15'. Therefore, the loss of dependency comes upto **Rs.7,56,000/-**.

e). In the light of ***Pranay Sethi***'s case, **Rs.15,000/-** towards loss of estate and **Rs.15,000/-** towards funeral expenses and **Rs.40,000/-** towards loss of consortium have to be awarded

and further the said amounts have to be enhanced by 10% every three years.

f). Therefore, in the present case, the claimant would get **Rs.48,400/-** instead of Rs.40,000/-. Further, the compensation amounts for Loss of Estate i.e., Rs.18,150/- and an amount of Rs.18,150/- for Funeral Expenses needs to be awarded.

g) Therefore, in all the claimants are entitled to the following compensation amounts:-

SI.No.	Name of the Heads	Awarded by this Court Rs.
1.	Loss of dependency	7,56,000/-
2.	Loss of consortium	48,400/-
3.	Loss of Estate	18,150/-
4.	Loss of Funeral Expenses	18,150/-
	Total	8,40,700/-

13. POINT NO.2:

a). It is the contention of the Insurance Company that only the tractor was insured with them and that the trailer was not insured and the policy covers the liability of only one person i.e., the driver of the tractor and no other persons liability is covered by the policy.

b). Learned counsel for the appellant relied upon the judgment of this Court in **Gunti Devaiah and others vs. Vaka Peddi Reddy and others**⁴, where in it was held that the trailer by itself cannot be driven and it has to be carried or towed to a motor vehicle like a tractor or self propelled vehicle. When the trailer is

⁴2003 (6) ALT 300 (S.B)

attached to the tractor it becomes tractor trailer. There is no provision requiring the trailer to be separately insured to cover the third party risk. The reasons are obvious that it cannot be driven by a driver as in the case of motor vehicles or tractors. In the present case also, the deceased was sitting on the water tanker which was attached to the tractor and the said tractor was driven by the driver in a rash and negligent manner. Thus, the contention of the insurer that the risk of the deceased sitting on the water tanker is not covered by the Insurance Company is untenable and it is held that the insurer of tractor is liable to pay compensation.

c). The learned counsel for the appellant further relied upon the Hon'ble Apex Court judgment in ***V.Renganathan vs. The Branch Manager United India***⁵. In the said case the appellants are the son and daughter of the deceased who was travelling in the Tractor by sitting on the Mudguard which met with an accident. The learned Tribunal held that the owner of the tractor as well as the insurer are jointly and severally liable to pay compensation, but the learned single judge of the High Court allowed the appeal and held that the Insurance Company was not liable to pay compensation. When the matter was taken up by the Supreme Court, it has held that the Insurance Company cannot be made liable for compensation but at the same time, the Hon'ble Apex

⁵2023 ACJ 623

Court has directed the Insurance Company to pay the compensation to the appellants as determined by the Tribunal with interest within three months from the date of the order with a liberty to recover the said amount from the owner of the vehicle. In the present case, the deceased was travelling on water tanker attached to the tractor. However, it is to be observed in this regard that the insurance policy/Ex.B1 covers the risk of only the driver and no other person. Therefore, it is held that the Insurance Company shall pay the compensation to the claimants and recover the same from the owner and driver of the vehicle in the present case.

14. POINT NO.3:

The order and decree passed by the Tribunal need to be modified with regard to the quantum of compensation and the liability fixed on the respondents. This Court has enhanced the compensation to **Rs.8,40,700/-** from that of **Rs.3,00,000/-** that is awarded by the Tribunal. Further, the insurance company is directed to pay the compensation and then recover the same from respondent No.1 and 2, the owner and driver of the crime vehicle. Hence, the point No.3 is answered accordingly.

15. POINT NO.4:

In the result, M.A.C.M.A filed by the claimant is partly allowed, modifying the order dated 19.01.2021 in M.V.O.P.No.720 of 2017 passed by the Chairman, Motor Accidents Claims

Tribunal-Cum-Principal District Judge, Ranga Reddy District, L.B. Nagar, Hyderabad, enhancing the compensation from **Rs.3,00,000/-** to **Rs.8,40,700/-** and the enhanced amount of compensation shall carry an interest @ 7.5 % per annum from the date of claim petition till realization. However, the interest for the period of delay, if any, is forfeited. Respondent No.3 is directed to deposit the compensation amount with accrued interest within a period of two months from the date of receipt of a copy of this judgment after deducting the amount if any already deposited. On such deposit, the appellant is entitled to withdraw the said amount without furnishing any security. No costs.

Miscellaneous petitions, pending if any, in this appeal, shall stand closed.

JUSTICE TIRUMALA DEVI EADA

Date: 24.04.2025
Dsu

THE HON'BLE SMT. JUSTICE TIRUMALA DEVI EADA

M.A.C.M.A.NO.315 OF 2021
Date: 24.04.2025

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