

APHC010090912014

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

[3520]

WEDNESDAY, THE ELEVENTH DAY OF FEBRUARY
 TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 354/2014

Between:

1. SOMU DAMODARA RAO, S/O.KRISHNA AUTO DRIVER
 R/O.MAMIDIBANDA COLONY, PURITIPENTA VILLAGE,
 GAJAPATHINAGARAM MANDAL,

...APPELLANT

AND

1. P ADINARAYANA ANR, S/O.RAMAYYA OWNER OF AUTO R/O.3-477,
 MAMIDIBANDA COLONY, PURITIPENTA VILLAGE,
 GAJAPATHINAGARAM MANDAL, VIZIANAGARAM DISTRICT.

2. RELIANCE GENERAL INSURANCE COMPANY LTD, REP BY ITS
 DIVISIONAL MANAGER O/O.VISAKHAPATNAM.

...RESPONDENT(S):

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

IA NO: 1 OF 2012(MACMAMP 1033 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 condone the delay of 100 days in filing the above appeal

Counsel for the Appellant:

1.G SAI NARAYANA RAO

Counsel for the Respondent(S):

1.SREEMANNARAYANA VATTIKUTI

2..

The Court made the following:

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA
M.A.C.M.A.No.354 of 2014

JUDGMENT:

Introductory:

1. This appeal is directed against the order and decree dated 28.07.2011 passed in M.O.P.No.195 of 2009 by the Chairman, Motor Accidents Claims Tribunal-cum-Additional District Judge, Vizianagaram (for short “the MACT”). The claimant before the learned MACT is the appellant herein.

2. Feeling aggrieved and dissatisfied by the quantum of compensation of Rs.1,91,000/- awarded as against the claim made for Rs.5,00,000/-, the present appeal is filed.

3. Respondent Nos.1 and 2 herein are the owner and the insurer of the Auto bearing Registration No.AP 35 U 5822 (hereinafter referred to as “the offending vehicle”).

Case of the Claimant:

4(i). On 21.07.2007, at about 01:30 p.m., when the petitioner / claimant was driving the offending vehicle which was loaded with chairs and when he reached near Gayatri College, he met with an accident. As a result of the said accident, the claimant sustained fracture of his right hand and other injuries all over his body. After the accident he was moved to Government Headquarters Hospital, Vizianagaram and from there he was shifted to KGH, Visakhapatnam for better

treatment. Thereafter, the petitioner was again admitted in Government Hospital, Vizianagaram and his right hand was amputated.

(ii). As on the date of accident, the petitioner was hale and healthy and was working as driver under respondent No.1 and was earning Rs.150/- per day. As he sustained grievous injuries and his right hand was amputated, he spent a considerable amount for his treatment, suffered a lot and is deprived of doing his normal work.

5. Respondent No.1, the owner of the offending vehicle, remained *ex parte* before the learned MACT.

Case of the Respondent-Insurance Company:-

6(i). Age, occupation and income of the claimant and the nature and effect of injuries, particularly contributing for the loss of income to the claimant, shall be strictly proved.

(ii). Further, the claimant shall also prove the insurance coverage in respect of the offending vehicle with the respondent Insurance Company and compliance with the conditions of policy, including a valid and effective driving licence to the petitioner, as well as the fitness and permit of the vehicle to run on the road at relevant time.

(iii). It is also the case of the respondent Insurance Company that since the petitioner was negligent, he is not entitled to compensation and respondent No.2 Insurance Company is not liable.

7. On the strength of pleadings, the following issues were settled for trial by the learned MACT:

- (i). Whether the petitioner sustained injuries in the pleaded accident that occurred due to the rash and negligent driving of the vehicle (Auto) bearing No.AP 35 U 5822 by its driver?
- (ii). Whether the petitioner is entitled to compensation and if so from which of the respondents?
- (iii). To what relief?

Additional issue:

- (i). Whether the pleaded accident was occurred resulting in injuries to the petitioner due to his involvement in a motor vehicle accident involving the auto bearing registration No.AP 35 U 5822 while it was in use in a public place?

Evidence before the learned MACT:

- 8(i). During trial, the claimant has taken witness stand as P.W.1 and one Dr. M. Sankara Rao examined as P.W.2.
- (ii). Petitioner relied on Ex.A1-GD Entry containing the statement of P.W.1, Ex.A2-medical intimation, Ex.A3-reciept of complaint, Ex.A4-O.P. Certificate/ticket, Ex.A5-discharge summary, Ex.A6-medical bills, Ex.A7-Disability Certificate, Ex.A8-copy of the licence of the claimant, Ex.X1-case sheet and Ex.X2-latest X-ray

Findings of the learned MACT:

9(i). The pleaded accident occurred resulting in injuries to the petitioner while the offending vehicle was in use in a public place.

(ii). P.W.2, Dr. M. Sankara Rao, deposed that he was working as Civil Assistant Surgeon, Government Hospital, Vizianagaram and that the petitioner was under his supervision. His evidence reveals that the claimant sustained fracture, that an operation was conducted on 25.07.2007 and the claimant's right hand was amputated and Ex.X.1 is the M.L. case record. He has assessed the disability at 65%.

(iii). The petitioner might have incurred necessary expenses towards transport to hospital, extra nourishment and attendant charges. Therefore, a sum of Rs.15,000/- is the entitlement under this head.

(iv). The petitioner sustained both simple and grievous injuries, he must have suffered pain, inconvenience, discomfort and mental agony. Therefore, a sum of Rs.10,000/- is the entitlement under this head.

(v). The petitioner sustained fracture and amputation of the right hand, he must have been under treatment and bed rest for about three months. Hence, a sum of Rs.6,000/- was awarded towards loss of earnings.

(vi). Petitioner is entitled for Rs.1,70,000/- towards loss of future income.

(vii). In all, the petitioner is entitled to Rs.1,91,000/-.

(viii). The learned MACT relied upon the decision in **New India Assurance Company Limited, Vijayawada vs. Doredla Satyam**¹, wherein it was held that the insurer is liable to indemnify the insured even when the driver himself was negligent.

(ix). Both the respondents are jointly and severally liable.

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

Arguments in the appeal:

For the claimant:

11(i). A very meager amount is awarded under the heads of transport to hospital, medicines, extra nourishment and attendant charges and all heads.

(ii). The learned MACT failed to consider that the petitioner, being an Auto Driver, suffered functional disability due to amputation of his hand which shall be taken to tune of 100%.

(iii). The learned MACT ought to have awarded the compensation as prayed for.

For the respondents:

12(i). The compensation awarded by the learned MACT under the impugned order is excessive and the appeal is filed to test the claim of the claimant.

(ii). There are no grounds to enhance the compensation.

¹ 1997 (5) ALT 219

13. This is an appeal filed by the claimant. There is no appeal by the Insurance Company. Therefore, the objection with regard to liability of the Insurance Company is out of dispute and the only point this Court shall examine is just and adequate nature of compensation awarded to the claimant.

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

- 1) Whether the compensation of Rs.1,91,000/- awarded by the learned MACT under the impugned order and decree is just and adequate or requires any enhancement, if so, to what extent?
- 2) What is the result of the appeal?

Point No.1:

Precedential Guidance:

15. A reference to parameters, for quantifying the compensation under various heads, addressed by the Hon'ble Apex Court is found necessary, to have standard base in the process of quantifying the compensation, to which the claimant is entitled.

(i) With regard to awarding just and reasonable quantum of compensation, the Hon'ble Supreme Court in ***Baby Sakshi Greola vs. Manzoor Ahmad Simon and Anr.***², arising out of SLP(c).No.10996 of 2018 on 11.12.2024, considered the scope and powers of the Tribunal in awarding just and compensation within the meaning of Act, after marshaling entire case law,

²2025 AIAR (Civil) 1

more particularly with reference to the earlier observations of the Hon'ble Supreme Court made in ***Kajal V. Jagadish Chand and Ors.***³, referred to various heads under which, compensation can be awarded, in injuries cases vide paragraph No.52, the heads are as follows:-

S. No.	Head	Amount (In ₹)
1.	Medicines and Medical Treatment	xxxxx
2.	Loss of Earning Capacity due to Disability	xxxxx
3.	Pain and Suffering	xxxxx
4.	Future Treatment	xxxxx
5.	Attendant Charges	xxxxx
6.	Loss of Amenities of Life	xxxxx
7.	Loss of Future Prospect	xxxxx
8.	Special Education Expenditure	xxxxx
9.	Conveyance and Special Diet	xxxxx
10.	Loss of Marriage Prospects	xxxxxx
Total		Rs. ... xxxxxx

(ii). Hon'ble Apex Court in ***Yadava Kumar Vs. Divisional Manager, National Insurance Company Limited and Anr.***⁴ vide para No.10, by referring to ***Sunil Kumar Vs. Ram Singh Gaud***⁵, as to application of multiplier method in case of injuries while calculating loss of future earnings, in para 16 referring to ***Hardeo Kaur Vs. Rajasthan State Transport Corporation***⁶, as to fixing of quantum of compensation with liberal approach, valuing the life and limb of individual in generous scale, in para 17 observed that :-

“The High Court and the Tribunal must realize that there is a distinction between compensation and damage. The expression compensation may include a claim for damage but compensation is more comprehensive. Normally damages are given for an

³2020 (04) SCC 413

⁴2010(10)SCC 341

⁵ 2007 (14) SCC 61

⁶ 1992(2) SCC 567

injury which is suffered, whereas compensation stands on a slightly higher footing. It is given for the atonement of injury caused and the intention behind grant of compensation is to put back the injured party as far as possible in the same position, as if the injury has not taken place, by way of grant of pecuniary relief. Thus, in the matter of computation of compensation, the approach will be slightly more broad based than what is done in the matter of assessment of damages. At the same time it is true that there cannot be any rigid or mathematical precision in the matter of determination of compensation."

(iii). In ***Rajkumar Vs. Ajay Kumar and Another***⁷, the Hon'ble Apex Court summarized principles to be followed in the process of quantifying the compensation after referring to socio economic and practical aspects from which, the claimants come and the practical difficulties, the parties may face in the process of getting disability assessed and getting all certificates from either the Doctors, who treated, or from the medical boards etc. principles summarized *vide* para No.19 are as follows:

19. *We may now summarise the principles discussed above:*

- (i) *All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.*
- (ii) *The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that the percentage of loss of earning capacity is the same as the percentage of permanent disability).*
- (iii) *The doctor who treated an injured claimant or who examined him subsequently to assess the extent of his permanent disability can give*

⁷ 2011 (1) SCC 343

evidence only in regard to the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.

(iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors.

(iv) In ***Sidram vs. United India Insurance Company Ltd. and Anr.***⁸

vide para No.40, the Hon'ble Apex Court referred to the general principles relating to compensation in injury cases and assessment of future loss of earning due to permanent disability by referring to ***Rajkumar's*** case, and also various heads under which compensation can be awarded to a victim of a motor vehicle accident.

(v) In ***Sidram's*** case, reference is made to a case in ***R.D. Hattangadi V. Pest Control (India) (P) Ltd.***⁹. From the observations made therein, it can be understood that while fixing amount of compensation in cases of accident, it involves some guess work, some hypothetical consideration, some amount of sympathy linked with the nature of the disability caused. But, all these elements have to be viewed with objective standards. In assessing damages, the Court must exclude all considerations of matter which rest in awarding speculation or fancy, though conjecture to some extent is inevitable.

⁸ 2023 (3) SCC 439

⁹ 1995 (1) SCC 551

Analysis:

16. The evidence of claimant as P.W.1 is clear and categorical as to the injuries sustained in the accident, the treatment undergone and the amputation of the right hand, the same being a permanent disability contribution for total loss of income. The occupation of the petitioner/claimant was driver of an auto at the relevant time. He has claimed that he was earning Rs.150/- per day. There is no proof, but notionally, the income can be adopted at Rs.100/- per day, taking note of the socio economic circumstances of the year 2007.

17. Ex.A7 is the disability certificate indicating the disability at 65%. The ability of the petitioner to do some work with the left hand and earn something is different. The disability in respect of the occupation as a driver, can be considered as 100%.

18. The date of admission into Government Hospital, Vizianagaram on 08.08.2007 and treatment undergone etc. are all matters of record. Medical bills may be standing for a lesser amount but incurring reasonable expenditure either towards medical treatment, attendant charges, transportation etc. cannot be ignored, particularly in view of the observations in the authorities cited above as to permissibility of guess work and hypothesis.

19. Practical and empathetic consideration is sometimes necessary, is the spirit of the authorities referred above.

20. As per the discharge summary and the medical records, case sheet etc. the claimant is aged about '30' years. Adding of future prospects to the income is permissible. Even in respect of an injury case.

21. The ratio at which the future prospects have to be adopted is provided in ***National Insurance Company Ltd. v. Pranay Sethi and Others***¹⁰ case which is as follows:

Adding future prospects at 50% in respect of permanent employment where the claimant is below 40 years, 30% where claimant is between 40-50 years and 15% where the claimant is between 50-60 years. Further, in respect of self-employed etc., addition of income at 40% for the claimant below 40 years, at 25% where the claimant is between 40-50 years and at 10% where the claimant is between 50-60 years.

22. The claimant is self employed, aged 30 years. Therefore, 40% addition can be made towards the future prospects. Considering his nature of employment, the income of the petitioner is acceptable at Rs.3,000/- per month, as observed above in the light of the socio economic circumstances of the year 2007. On 40% addition, the same will come to Rs.4,200/- per month, which will come to Rs.50,400/- per annum. The multiplier applicable for the age group of '30' years is '17'. Therefore, under the head of the disability, the entitlement of claimant for compensation at Rs.8,56,800/-.

¹⁰ 2017(16) SCC 680

23. In the light of the precedential guidance and in view of the reasons and evidence referred above, the entitlement of the claimant for reasonable compensation in comparison to the compensation awarded by the learned MACT is found as follows:

Sl. No.	Head	Granted by the learned MACT	Fixed by this Appellate Court
1.	Pain and suffering	Rs.5,000/-	Rs.50,000/-
2.	(a)Transportation	Rs.10,000/-	Rs.10,000/-
	(b)Medical expenditure		Rs.10,000/-
	(c)Extra nourishment		Rs.20,000/-
	(d)Attendant charges		Rs.10,000/-
3.	Loss of income / earnings during the period of hospitalization etc.	Rs.6,000/-	Rs.10,000/-
4.	Permanent disability	Rs.1,70,000/- @ loss of future earnings and disability	Rs.8,56,800/-
5.	Loss of amenities of life	-Nil-	Rs.15,000/-
	Total:	Rs.1,91,000/-	Rs.9,81,800/-

Granting of more compensation than what claimed, if the claimant is otherwise entitled:-

24. 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 preposition 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**¹¹, 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.**¹² 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.”

(3) **Ramla and Others Vs. National Insurance Company Limited and Others**¹³ 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.

¹¹ (2003) 2 SCC 274

¹² 2020 (04) SCC 413

¹³ (2019) 2 SCC 192

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.”

Precedential guidance with regard to quantifying compensation in a claim filed under Section 163-A beyond the caps contemplated under the said provision viz. Section 163-A:-

25. The claim in the present case is laid invoking Section 163-A of Motor Vehicles Act which suggests for adoption of II schedule to the Motor Vehicles Act in the process of quantifying the compensation. The relevant factors to be considered are:

(i). Adoption of annual income with reference to age of the deceased and multiplier mentioned therein. Even the compensation part is also specifically mentioned in II schedule in thousands. It is further mentioned that 1/3rd of the income shall be reduced towards personal expenses of the deceased. Towards general damages for funeral expenses, loss of consortium, loss of estate, medical expenditure amounts mentioned therein shall be granted. The claim made under Section 163-A of the Motor Vehicles Act permits awarding and quantification of compensation as per the II schedule, the amount mentioned under each head are as follows:

3.General Damage (in case of death):

The following General Damages shall be payable in addition to compensations outlined above:

<i>(i) Funeral expenses</i>	-- Rs. 2,000/-
<i>(ii) Loss of Consortium, if beneficiary is the spouse</i>	-- Rs. 5,000/-
<i>(iii) Loss of Estate</i>	-- Rs. 2,500/-
<i>(iv) Medical Expenses actual expenses incurred before death supported by bills/vouchers but not exceeding</i>	-- Rs. 15,000/-

26. This schedule was inserted pursuant to Act No.54 of 1994 w.e.f. 14.11.1994 while amending Motor Vehicles Act, 1998. With regard to adding of future prospects taking note of notional income, necessity to consider more income than what is mentioned in the table contemplated in terms of Section 163-A and awarding compensation under the conventional heads etc., Hon'ble Apex Court in a case between ***Kurvan Ansari Alias Kuran Ali and Another vs. Shyam Kishore Murmu and another***¹⁴, discussed the legal position with reference to earlier directions of the Apex Court in the context of considering a claim of a minor boy (non earning group) and adherence to cap of Rs.15000/- per annum as the income of the deceased. Relevant observations are made in paragraph Nos.12 to 15 of the judgment as to non-binding nature of caps fixed under Section 163-A and necessity to take increase notional income by taking note of inflation and devolution of rupee and increase cost of living. The observations are as follows:

12. *In the judgment in Puttamma [Puttamma v. K.L. Narayana Reddy, (2013) 15 SCC 45 : (2014) 4 SCC (Civ) 384 : (2014) 3 SCC (Cri) 574] , this Court has observed that the Central Government was bestowed with the duties to amend*

¹⁴ (2022) 1 SCC 317

Schedule II in view of Section 163-A(3) of the Motor Vehicles Act, 1988, but it failed to do so. In view of the same, specific directions were issued to the Central Government to make appropriate amendments to Schedule II keeping in mind the present cost of living. In the said judgment, till such amendments are made, directions were issued for award of compensation by fixing a sum of Rs 1,00,000 (Rupees one lakh only) towards compensation for the non-earning children up to the age of 5 (five) years old and a sum of Rs 1,50,000 (Rupees one lakh fifty thousand only) for the non-earning persons of more than 5 (five) years old.

13. *In R.K. Malik [R.K. Malik v. Kiran Pal, (2009) 14 SCC 1 : (2009) 5 SCC (Civ) 265 : (2010) 1 SCC (Cri) 1265] also, this Court has observed that the notional income fixed under Section 163-A of the Motor Vehicles Act, 1988 as Rs 15,000 per annum should be enhanced and increased as the same continued to exist without any amendment since 14-11-1994. In Kishan Gopal [Kishan Gopal v. Lala, (2014) 1 SCC 244 : (2014) 1 SCC (Civ) 184 : (2014) 1 SCC (Cri) 241] where the deceased was a ten-year-old child, this Court has fixed his notional income at Rs 30,000 per annum.*

14. *In this case, it is to be noted that the accident was on 6-9-2004. In spite of repeated directions, Schedule II is not yet amended. Therefore, fixing notional income at Rs 15,000 per annum for non-earning members is not just and reasonable.*

15. *In view of the judgments in Puttamma [Puttamma v. K.L. Narayana Reddy, (2013) 15 SCC 45 : (2014) 4 SCC (Civ) 384 : (2014) 3 SCC (Cri) 574] , R.K. Malik [R.K. Malik v. Kiran Pal, (2009) 14 SCC 1 : (2009) 5 SCC (Civ) 265 : (2010) 1 SCC (Cri) 1265] and Kishan Gopal [Kishan Gopal v. Lala, (2014) 1 SCC 244 : (2014) 1 SCC (Civ) 184 : (2014) 1 SCC (Cri) 241] , we are of the view that it is a fit case to increase the notional income by taking into account the inflation, devaluation of the rupee and cost of living. In view of the same, the judgment in Rajendra Singh [Rajendra Singh v. National Insurance Co. Ltd., (2020) 7 SCC 256 : (2020) 4 SCC (Civ) 99 : (2020) 3 SCC (Cri) 134] relied on by the learned counsel for Respondent 2 insurance company would not render any assistance to the case of the insurance company.*

27. Further, the Hon'ble Apex Court in ***Meena Devi vs. Nunu Chand mahto alias Nemchand Mahto & Others***¹⁵, while referring to ***Kurvan Ansari Alias Kuran Ali and Another vs. Shyam Kishore Murmu and another*** (14 supra) case adopted more income than fixed in the II schedule in the Motor Vehicles Act in a case filed in terms of Section 163-A of M.V.Act, at para Nos. Nos.14 and 15 of the judgment.

28. In view of the legal position and precedential guidance, the following points will emerge:

- (i) Even in claims under Section 163-A, the caps contemplated under section 163-A as to adopting the income at a particular scale with reference to the II Schedule to the Motor Vehicles Act can be deviated from if the circumstances justify.
- (ii) Even in respect of claimant under Section 163-A, awarding compensation under the heads of loss of consortium, loss of estate, funeral expenses etc. under the heads of general damages is permissible beyond the caps fixed in II schedule taking aid of the scales adopted by the Hon'ble Supreme Court.
- (iii) It is also relevant to note that, after the amendments to the Motor Vehicles Act, 2019, under Act No.32 of 2019, the provision under Section 163-A is omitted. Consequently, the II Schedule is also omitted by Act

¹⁵ 2023 (1) SCC 204

No.32 of 2019. However, the applicability of the same to pending matters and earlier causes of action is a different aspect.

(iv) The Motor Vehicles Act being social welfare in nature and its intention being beneficial and as there are earlier directions of the Hon'ble Apex Court to take appropriate call by the legislature, it can be deemed that the limitations and caps contemplated under Section 163-A will not have any conspicuous significance in quantification and awarding of just compensation where the claimant is entitled for the same in the facts and circumstances of such case.

(v) In respect of general damages referred to in the II Schedule, like funeral expenses, loss of estate, loss of consortium, transport expenses etc., it is clear that strict adherence to the caps in the Schedule will result in defeating the object and even the purpose of law when the amounts fixed are seen.

29. Claimant invoking Section 163-A of the Motor Vehicles Act need not plead or prove negligence, but at the instance of either tortfeasor or their indemnifier, the Court if proceeds to examine negligence and apply the fault theory in appropriate cases, the cap under Section 163-A need not be followed and the tortfeasor or their indemnifier, having invited examination of negligence which is contemplated under Section 166, cannot ask the claimant to be confined to the cap under Section 163-A. The purpose of any system of justice is to provide remedies to the victims and to restore the victims of a tort or crime to their

original positions to the extent possible. Therefore, the concerns of all stakeholders connected to the process of redress and reparation should focus on providing adequate compensation. The development and culture of any society will be seen from how it treats its criminals and victims. The evolution of legal system from retribution to restoration is clear in this century. If the aim of the law is to restore what is lost and to undo the wrong, then providing adequate compensation to the victim should be considered as important as punishing or reforming the wrongdoer.

30. For the reasons aforesaid and in view of the discussion made above, the point framed is answered in favour of the claimant concluding that the claimant is entitled for compensation of Rs.9,81,800/- and the order and decree dated 28.07.2011 passed by the learned MACT in M.O.P.No.195 of 2009 require modification accordingly.

Point No.2:

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

- (i) The compensation awarded by the learned MACT at Rs.1,91,000/- with interest at the rate of 7.5% per annum is modified and enhanced to Rs.9,81,800/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization.
- (ii) Claimant is liable to pay the Court fee for the enhanced part of the compensation, before the learned MACT.

- (iii) Respondent Nos.1 and 2 are jointly and severally liable. However, Respondent No.2 is liable in view of the Insurance Policy.
- (iv) Time for payment / deposit of the balance amount is two months.
 - (a) If the claimant furnishes the bank account number within 15 days from today, respondent No.2/ Insurance Company shall deposit the amount directly into the bank account of the claimant and file the necessary proof before the learned MACT.
 - (b) If the claimant fails to comply iv(a) above, respondent No.2 / Insurance Company shall deposit the amount before the learned MACT and the claimant is entitled to withdraw the amount at once on deposit.
- (v) There shall be no order as to costs, in this appeal.

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

A. HARI HARANADHA SARMA, J

Date:11.02.2026
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HON'BLE SRI JUSTICE A. HARI HARANADHA SARMA

M.A.C.M.A No.354 of 2014

11th February, 2026

Knr