

**HON'BLE SRI JUSTICE M.GANGA RAO  
AND  
HON'BLE SRI JUSTICE V.SRINIVAS**

M.A.C.M.A.Nos.3451 and 3294 of 2009

**M.A.C.M.A.No.3451 of 2009**

Between:

United India Insurance Company Limited,  
Rep.by its Divisional Manager,  
Arundelpet, Guntur.

... Appellant

AND

1.Ravipati Jaya Lakshmi, W/o.Venkateswarlu,  
Aged 44 years, Resident of D.No.7-158/39,  
Kakatiyanagar, Narasaraopet, Guntur District.

2.Ravipati Venkateswarlu, S/o.Venkatrayudu,  
Aged 52 years, Resident of D.No.7-158/39,  
Kakatiyanagar, Narasaraopet, Guntur District.

3.Ravipati Venugopala Rao, S/o.Venkateswarlu,  
Aged 24 years, Resident of D.No.7-158/39,  
Kakatiyanagar, Narasaraopet, Guntur District

4.B.K.Balakrishna Rao, S/o.B.M.Kandoji Rao,  
Mahadeva Motor Service, D.No.55,  
6<sup>th</sup> cross Devaraju Urs layout, A Block,  
Opp.Old Bus Stand, Davanagare-577002,  
Karnataka State.

5.Sambasiva Rao, R/o.298-A, Mess Road,  
Mutyalanagar, II Main Road, Bangalore,  
Karnataka State.

6.The New India Assurance Company Limited,  
Rep.by its Divisional Manager, 4<sup>th</sup> Lane,  
Arundelpeta, Guntur.

.. Respondents

**M.A.C.M.A.No.3294 of 2009**

Between:

1.Ravipati Jaya Lakshmi, W/o.Venkateswarlu,  
Aged 44 years, Resident of D.No.7-158/39,  
Kakatiyanagar, Narasaraopet, Guntur District.

2.Ravipati Venkateswarlu, S/o.Venkatrayudu,  
Aged 52 years, Resident of D.No.7-158/39,  
Kakatiyanagar, Narasaraopet, Guntur District.

3.Ravipati Venugopala Rao, S/o.Venkateswarlu,  
Aged 24 years, Resident of D.No.7-158/39,  
Kakatiyanagar, Narasaraopet, Guntur District.

... Appellants

AND

1.B.K.Balakrishna Rao, Business, Mahadeva  
Motor Service, Opp.Old Bus Stand,  
Davanagare-577002, Karnataka State.

2.United India Insurance Company Limited,  
Rep.by its Divisional Manager, Arundelpet,  
Guntur District.

3.Sambasiva Rao, R/o.298-A, Mess Road,  
Mutyalanagar, II Main Road, Bangalore,  
Karnataka State.

4.The New India Assurance Company Limited,  
Rep.by its Divisional Manager, 4<sup>th</sup> Lane,  
Arundelpeta, Guntur.

.. Respondents

**DATE OF ORDER PRONOUNCED: 08.12.2022**

**HON'BLE SRI JUSTICE M.GANGA RAO**

**AND**

**HON'BLE SRI JUSTICE V.SRINIVAS**

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|--|--------|
| 1. Whether Reporters of Local newspapers<br>may be allowed to see the Judgments?   | Yes/No |
| 2. Whether the copies of judgment may be<br>Marked to Law Reporters/Journals.      | Yes/No |
| 3. Whether Their ladyship/Lordship wishes<br>to see the fair copy of the Judgment? | Yes/No |

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M.GANGA RAO, J

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V.SRINIVAS, J

**\* HON'BLE SRI JUSTICE M.GANGA RAO**  
**&**  
**HON'BLE SRI JUSTICE V.SRINIVAS**

+ M.A.C.M.A.No.3451 of 2009

% 08.12.2022

#United India Insurance Company Limited .. Appellant

Vs.

\$ Ravipati Jaya Lakshmi  
and five others. .. Respondents

+ M.A.C.M.A.No.3294 of 2009

# Ravipati Jaya Lakshmi  
and two others. .. Appellants

Vs.

\$ B.K.Balakrishna Rao and three others .. Respondents

**! Counsel for the Appellant/insurer: Sri Srinivasa Rao  
Vutla**

**Counsel for Appellants/claimants: Sri B.Parameswara Rao  
Counsel for the insured of the Bus: Sri Siva Prasad Reddy  
Venati,**

<Gist :

>Head Note:

? Cases referred:

1. 2011 ACJ 1441 (SC)
2. 2009 ACJ 1298
3. 2017 (6) ALT 60 (SC)
4. 2017 (3) SCC 315
5. (2003) 2 SCC 274

This Court made the following:

THE HON'BLE SRI JUSTICE M.GANGA RAO  
AND

THE HON'BLE SRI JUSTICE V.SRINIVAS

M.A.C.M.A.Nos.3451 and 3294 of 2009

**COMMON JUDGMENT:** (per Hon'ble Sri Justice V.Srinivas)

These appeals are directed against the order of the Chairman, Motor Vehicle Accident Claims Tribunal-cum-District Judge, Guntur (hereinafter called as 'the Tribunal') in M.V.O.P.No.426 of 2007 dated 30.03.2009.

2. These appeals arising out of same accident and raising common questions of law have been heard together and are being decided by this common judgment.

3. The facts concerned to these cases remain in short compass.

4. In M.A.C.M.A.No.3451 of 2009 the insurer of the Bus bearing No.KA 17B 7374, belonging to the 3<sup>rd</sup> respondent herein, is the appellant. The respondent Nos.1 and 2 are parents and respondent No.3 is younger brother of Ramesh Babu (hereinafter called as 'the deceased'). Respondent No.4 and 5 herein are the insured and insurer of Toyota Quallis Vehicle bearing No.KA 04 AA 5400.

5. In M.A.C.M.A.No.3294 of 2009 the claimants are the appellants for enhancement of compensation.

6. According to the claimants, in the petition before the Tribunal, on 20.10.2006 at about 06.30 A.M., when the deceased and some others were proceeding in the Toyota Quallis Vehicle bearing No.KA 04 AA 5400 from Bangalore to Goa, on the way, near Davangare, the bus bearing No.KA 17B 7374, being driven by its driver at high speed and in a rash and negligent manner, came in opposite direction towards wrong side and hit the said Toyota Quallis Vehicle. As a result, the deceased and three others died on the spot. By the time of accident the deceased was aged about 24 years and earning Rs.4,92,000/- per annum by working as Software Engineer in Onmobile Asia Pacific Private Limited, Bagalore. Being dependents, the claimants filed petition under M.V. Act claiming compensation of Rs.50,00,000/- against insurer and insured of both the vehicles.

7. Written statement was filed by the owner of the bus, denying all the material allegations, stating that the bus was validly insured; and that the accident occurred due to rash and negligent driving of the Quallis vehicle and hence, he is not liable to pay compensation.

8. Written statement was filed by the insurer of the bus, denying all the material allegations, stating that the accident occurred due to rash and negligent driving of the Quallis vehicle;

and that the claimants have to prove that the owner of the bus has not violated the terms of the policy.

9. Written Statement was filed by the owner of the Toyota Quallis vehicle, denying the material allegations, stating that the accident occurred due to rash and negligent driving of the bus by violating the traffic rules towards wrong side and hit the Quallis vehicle and hence, he is not liable to pay compensation.

10. Written statement was filed by the insurer of the Quallis vehicle, denying all the material allegations, stating that the accident occurred due to rash and negligent driving of the bus; and that police registered crime against the driver of the bus and filed charge sheet.

11. The Tribunal settled the following issues for enquiry basing on the material:

1. Whether the deceased died in the accident caused due to rash and negligent driving of the Bus bearing No.KA 17B 7374 and Qualis No.KA 04 AA 5400 by their drivers ?

2. Whether the petitioners are entitled for compensation? If so, what would be the just amount of compensation that the petitioners would be entitled to and against whom?

3. To what relief?

12. In the course of enquiry, on behalf of the claimants, PWs.1 to 3 were examined and Exs.A.1 to A.8 and X.1 to X.3 were marked. On behalf of the insurer of the bus, R.W.1 was examined,

Exs.B.1 to B.5 were marked. One J.Rahamtulla, R.T.A. official was examined as R.W.2. On behalf of the insurer of the Quallis vehicle, R.W.3 was examined, Ex.B.6 was marked.

13. On the material, the Tribunal, having come to the conclusion that the accident occurred due to the rash and negligent driving of the bus by its driver, held that parents of the deceased are entitled for the compensation of Rs.38,80,000/-, with interest at 7% per annum from the date of petition till the date of realization, for the death of the deceased in the accident and the 3<sup>rd</sup> claimant, who is brother of the deceased is not entitled for any share in the compensation as he is not his dependent and the insured and insurer of the crime bus shall deposit the compensation within 2 months from the date of order and that the appellant/insurer is entitled to recover the compensation, in case of payment if any, from the owner of the bus/insured, by filing Execution Petition against him and that the petition against insured and insurer of the Tayota Quallis vehicle is dismissed.

14. It is against the said order, these appeals are preferred by the claimants and insurer of the Bus bearing No.KA 17B 7374.

15. Heard Sri Srinivasa Rao Vutla, learned counsel for the appellant/insurer of the Bus, Sri Siva Prasad Reddy, Venati,

learned counsel for the insured of the Bus, Sri B.Parameswara Rao,  
learned counsel for the appellants/claimants.

16. Now, the following points arise for determination:

1. Whether there is any contributory negligent on the part of the driver of the Tayota Quallis Vehicle?
2. Whether the compensation awarded to the claimants is just compensation? and
3. To what relief ?

17. **POINT No.1:**

The documents placed on record goes to show that the accident occurred due to rash and negligent driving of the driver of the bus alone as per Ex.A.2 Charge Sheet. There is no dispute that the accident, in question, occurred on 20.10.2006 at about 06.30 A.M., Near Davangare on N.H.4. At the time of accident, the deceased and some other Engineers were proceedings in the Quallis Vehicle from Bangalore to Goa in a four lane road i.e., N.H.4. The driver of the bus came in wrong lane in opposite direction and hit the Quallis vehicle, which was proceeding in right direction.

18. As per the evidence placed on record show that inspite of number of opportunities given, the insured and insurer of the bus did not choose to examine the driver of the bus, to come to the

conclusion that there is head-on collision or there is any contributory negligence on the part of the driver of the Quallis Vehicle, who died in the accident. Admittedly, the driver of the crime bus ought not to have come in a wrong lane. Both lanes of the road at the scene of accident same direction lanes. As per record there is no evidence to show that the driver of the bus need to come in the lane where the Quallis vehicle was proceeding. The appellant/insurer and insured of the bus ought to have examined the driver of the bus, who is best witness to depose about the negligence on the part of the driver of Quallis Vehicle. On the other hand, the insured suppressed the material before the Tribunal by not examining the driver of the bus as a witness. More so, there is no evidence placed on record to say that having seen the bus in the opposite direction, the driver of the Quallis vehicle did not stop his vehicle and failed to avoid the accident. The very fact found from the record that the driver of the Quallis vehicle died on the spot would go to show that the bus came in opposite direction at high speed and hit the Quallis vehicle. It is a proved fact, because the bus came in wrong lane, the accident occurred. If at all there is fault on both the drivers of the vehicle, the appellant/insurer and insured of the bus might have examined the driver of the bus, who is best witness to speak what was really

happened and on whose fault the accident was occurred, but the appellants did not do so. Moreover, the evidence placed by the claimants i.e., P.W.2, who is said to be eye witness to the incident, categorically shows that the accident occurred was due to negligence on the part of the driver of the bus alone. Thus, this point is answered against the appellant/insurer of the bus.

19. **POINT NO.2:**

The Tribunal accepted the evidence of P.W.3, who is uninterested and competent person to speak about the income of the deceased and the Tribunal has opined that there is no need to P.W.4 being Head of Administration in Onmobile Asia Pacific Private Limited, to give false evidence and to issue document like Ex.A.7 Salary Certificate. Based on which, the Tribunal rightly came to the conclusion that the deceased was earning Rs.4,92,000/- per annum by the date of his death working as Software Engineer in Honeywell Technology, Bangalore.

20. As can be seen from the evidence on record, the deceased was a qualified Software Engineer and he was working in a reputed Software Company. With experience, he would have got better opportunities and earn more salary. He would have spent more towards maintenance of his parents with passage of time. As per

the evidence of P.W.3, the deceased earning Rs.4,92,000/- per annum at the time of his death.

21. While deciding the income of the deceased, it is keep in mind, as per the ratio laid down in ***APEX Court judgment in between Sunil Sarma and others vs. Bachitar Singh and others***<sup>1</sup>, wherein it was held that:

*“They are of the view that deductions made by the Tribunal on account of HRA and CCA and Medical allowance are done on incorrect basis and should have been taken into consideration in calculation of the income of the deceased. Further, deductions toward EPF, GIS should also not have been made in calculating the income of the deceased”.*

22. As per the ***Sarla Verma and Ors. v. Delhi Transport Corporation and Anr***<sup>2</sup>, decision where the annual income is in taxable range, the income tax payable by the deceased should be deducted from the gross income of the deceased for determining actual income of the deceased. On perusal of Ex.A.7 Salary certificate, the gross salary of the deceased is Rs.4,92,000/- per annum. After deducting permissible deductions under Income Tax Act i.e., Professional Tax Rs.200/- per month (Rs.200 X 12 = 2,400/- per annum) and Rs.1,711/- per month (Rs.1,711 X 12 =

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<sup>1</sup> 2011 ACJ 1441 (SC)

<sup>2</sup> 2009 ACJ 1298

20,532/- per annum) towards PF, making total of all the deductions, it comes to Rs.22,932/-. Thus, the net salary is Rs.4,69,068/- per annum (Rs.4,92,068 - Rs.22,932).

23. The following tax rates are applicable as per the Income Tax Act during the relevant period i.e., 2006:

Income	Tax Rate
Upto 100,000	Nil
100,000 to 1,50,000	10% of the amount exceeding 100,000
150,000 to 250,000	Rs.5,000 + 20% of the amount exceeding 150,000
250,000 & above	Rs.25,000 + 30% of the amount exceeding 250,000

Accordingly, the income tax of the deceased would be calculated as follows:

After deduction of Rs.1,00,000/- from the total income of the deceased i.e. Rs.4,69,068/-, the taxable income would be Rs.3,69,068/-. For the next Rs.50,000/-, the tax would be Rs.5,000/-. On the remaining balance amount of Rs.3,19,068/- (Rs.4,69,068/- (-) 1,00,000/- (-) 50,000/-), if the tax at 20% is calculated, it would come to Rs.20,000/-. On the remaining balance amount of Rs.2,19,068/- (Rs.4,69,068/- (-) 1,00,000/- - (-) 50,000/- (-) 1,00,000), if the tax at 30% is calculated, it would

come to Rs.65,720/-. Thus, the total income tax would come at Rs.90,720/-(Rs.5,000/-+ Rs.20,000/- + Rs.65,720/-). Thus after deducting the said amount of tax payable during the relevant year, the actual income is determined at **Rs.3,78,348/-**-(Rs.4,69,068/- - 90,720/-).

24. As per the decision of the constitution bench of the Apex Court judgment reported in *National Insurance Company Limited Vs.Pranay Sethi and others*<sup>3</sup>, the deductions towards personal and living expenses of the deceased, held at Paragraph No.39 as follows:

*39. Before we proceed to analyse the principle for addition of future prospects, we think it seemly to clear the maze which is vividly reflectible from Sarla Verma, Reshma Kumari, Rajesh and Munna Lal Jain. Three aspects need to be clarified. The first one pertains to deduction towards personal and living expenses. In paragraphs 30, 31 and 32, Sarla Verma lays down:-*

*“30. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra<sup>4</sup>, the general practice is to apply standardised deductions. Having considered several subsequent decisions of this (2003) 3 SLR (R) 601 Court, we are of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependent family*

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<sup>3</sup> 2017 (6) ALT 60 (SC)

*members is 4 to 6, and one-fifth (1/5th) where the number of dependent family members exceeds six.*

*31. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent(s) and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependant. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependants, because they will either be independent and earning, or married, or be dependent on the father.*

*32. Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third."*

25. As per the Pranay Sethi case(referred supra), by fortifying Sarla Verma case (referred supra), while determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40

to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.

26. In the present case as per the above said decision 50% of actual salary shall have to be added to the income of the deceased towards future prospects as the victim is in the age group below the age of 40 years. After adding 50% to the income of the deceased towards future prospects his income is determined at Rs.5,67,522/- (Rs.3,78,348/- + Rs.1,89,174/-).

27. In the case on hand, since the deceased is bachelor as per the ratio laid in the above said APEX Court Judgment 50% is to be deducted from the income of the deceased towards personal and living expenses. Then the quantum is determined as Rs.2,83,761/-.

28. Regarding just compensation, in a decision of Hon'ble Supreme Court between *Sandeep Khanuja vs Atul Dande & Anr*<sup>4</sup>, at Paragraph Nos.11 and 12 held as follows :

*11.....it is now a settled principle, repeatedly stated and restated time and again by this Court, that in awarding compensation the multiplier method is logically sound and legally well established. This method, known as 'principle of multiplier', has been evolved to quantify the loss of income as a result of*

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<sup>4</sup> 2017 (3) SCC 315

*death or permanent disability suffered in an accident.....*

*12..... While applying the multiplier method, future prospects on advancement in life and career are taken into consideration. In a proceeding under Section 166 of the Act relating to death of the victim, multiplier method is applied after taking into consideration the loss of income to the family of the deceased that resulted due to the said demise. Thus, the multiplier method involves the ascertainment of the loss of dependency or the multiplicand having regard to the circumstances of the case and capitalising the multiplicand by an appropriate multiplier. The choice of the multiplier is determined by the age of the deceased or that of the claimant, as the case may be.....*

*..... there should be no departure from the multiplier method on the ground that Section 110-B, Motor Vehicles Act, 1939 (corresponding to the present provision of Section 168, Motor Vehicles Act, 1988) envisaged payment of 'just' compensation since the multiplier method is the accepted method for determining and ensuring payment of just compensation and is expected to bring uniformity and certainty of the awards made all over the country.".....*

29. The appropriate multiplier applicable to the age of the deceased i.e., 24 years is 18. The total loss of dependency is determined at **Rs.51,07,698/-** (Rs.2,83,761/- x 18). Apart from that as per the decision of the constitution bench of the Apex

Court judgment reported in **National Insurance Company Limited Vs. Pranay Sethi and others 2017 (6) ALT 60 (SC)** an amount **Rs.15,000/-** towards funeral expenses and **Rs.15,000/-** towards love and affection are awarded. In-total the claim petitioner are entitled compensation of **Rs.51,37,698/-**.

30. A brief exposition of the calculation made to arrive at the compensation is set out infra:

S.No.	Heads	Calculation
1	The annual income of the deceased after deduction of Income Tax	<b>Rs.3,78,348/ per annum</b>
2	50% of above(1) to be added as future prospects	(Rs.3,78,348/- + Rs.1,89,174/-) <b>Rs.5,67,522/-</b>
3	50% to be deducted as personal expenses of deceased.	<b>Rs.2,83,761/-.</b>
4	Compensation arrived at on application of multiplier 18.	(Rs.2,83,761/- x 18) <b>Rs.51,07,698/-</b>
5	Loss of estate	<b>Rs.15,000/-</b>
6	Funeral expenses	<b>Rs.15,000/-</b>
	<b>Total compensation awarded(Rows 4+5+6)</b>	<b>Rs.51,37,698/-</b>

31. Further it is settled law that under the provisions of the Motor Vehicle Act, 1988, there is no restriction that compensation could be awarded only up to the amount claimed by the claimant. In an appropriate case where from the evidence brought on record, if Tribunal consider that claimant is entitled to get more compensation than claimed, the Tribunal may pass such award. In an appropriate case where from the evidence brought on record if Tribunal considers that claimant is entitled to get more compensation than claimed, the Tribunal may pass such award. There is no embargo to award compensation more than that claimed by the claimant. Rather it is obligatory for the Tribunal and Court to award “just Compensation”, even if it is in the excess of the amount claimed. This settled position is followed from the decision of the Supreme Court reported in *Nagappa v. Gurudayal Singh and others*<sup>5</sup>.

32. Therefore, in view of the forgoing discussion, we are of the opinion that the award passed by the Tribunal warrants interference by **enhancing the compensation from Rs.38,80,000/- to Rs.51,37,698/-**. Thus, this appoint is answered in favour of appellants/claimants.

33. **POINT No.3:**

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<sup>5</sup> (2003) 2 SCC 274

In view of the findings on point Nos.1 and 2, the order passed by the Tribunal warrants interference regarding quantum of compensation only and with regard to the remaining aspects there is no need to disturb the well articulated order passed by the Tribunal. As such, the appeal filed by the insurer of the Bus is liable to be dismissed and the appeal filed by the claimants is liable to be allowed.

34. In the result, the M.A.C.M.A.No.3451 of 2009 is dismissed. There shall be no order as to costs.

35. The M.A.C.M.A.No.3294 of 2009 is allowed enhancing the compensation from Rs.38,80,000/- to Rs.51,37,698/- with interest at 7% per annum, with proportionate costs from the date of petition till the date of realization against respondent Nos.1 and 2(insured and insurer of the Crime Bus). The respondent No.2 shall deposit the compensation amount within two months from the date of this judgment and then the 2<sup>nd</sup> respondent is entitled to recover the same from the 1<sup>st</sup> respondent by filing Execution Petition against him. The appellants/claimants shall pay the requisite Court-fee in respect of the enhanced amount awarded over and above the compensation claimed. Rest of the directions given by the Tribunal with regard to the apportionment of the compensation between the claimant/parents, their entitlement in

withdrawing the amount, non-entitlement of the 3<sup>rd</sup> claimant i.e., younger brother of the deceased and dismissal of the petition against other respondents i.e., owner and insured of the Quallis vehicle, shall remain unaltered.

36. The impugned order of the Tribunal stands modified to the aforesaid extent and in the terms and directions as above.

37. Interim orders granted earlier if any, stand vacated.

38. Miscellaneous petitions pending if any, stand closed.

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M.GANGA RAO, J

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V.SRINIVAS, J

Date:08.12.2022

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THE HON'BLE SRI JUSTICE M.GANGA RAO  
AND  
THE HON'BLE SRI JUSTICE V.SRINIVAS

**M.A.C.M.A.Nos. 3451 and 3294 of 2009**

DATE: 08.12.2022

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