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APHC010424122013



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

[3520]

FRIDAY, THE TWENTY SEVENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT**THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA****MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 1551/2013****Between:**

1. UNITED INSURANCE COMPANY LIMITED, REP BY ITS BRANCH
MANAGER, BRANCH NO.2, UPSTAIRS ANDHRA BANK GOWRI
SANKAR THEATRE ROAD, KOTHAPET, GUNTUR GUNTUR DISTRICT.

...APPELLANT**AND**

1. VUTLA PRASAD S/O ANJANEYULU DIED AS PER LRS 4 AND 5,
WORKED AS VOLVO BUS DRIVER IN KALESWARI TRAVELS, R/O
D.NO. 3-50 SATYANARAYANAPURAM, 3RD LANE ONGOLE,
PRAKASAM DISTRICT.

2. B CHANDRAIAH, S/O NARASIMHA, DRIVER OF LORRY BEARING NO.
AP 07 U 4129 R/O 5-33, CHERAKONDA VILLAGE, VANGOOR
MAHABOONNAGAR DISTRICT.

3. PATHIPATI RAMAIAH, S/O LATCHAIAH, OWNER OF THE LORRY
BEARING NO. AP 07 U 4129 R/O D.NO. 24-2-67, PATAN BAZAR,
GUNTUR GUNTUR DISTRICT.

4. VUTLA SUKANYA W/O LATE PRASAD, AGED 44 YEARS, R/O. D.NO. 11
24 2E, RAVULAKOLLUVARI STREET, RAMMURTHYPET, KAVALI,

SPSR NELLORE DISTRICT.

5.VUTLA LAKSHMI PRANATHI D/O LATE PRASAD, R/O. D.NO. 11 24 2E, RAVULAKOLLUVARI STREET, RAMMURTHYPET, KAVALI, SPSR NELLORE DISTRICT. RESPONDENTS 4 AND 5 ARE BROUGHT ON RECORD AS LR OF THE DECEASED 1ST RESPONDENT AS PER COURT ORDER DATE 15.02.2024 IN IA.NO.3/2024.

...RESPONDENT(S):

Appeal filed under Order 41 of CPC praying that the Highcourt may be pleased toUnder Section 173 Appeal being aggrieved by the decree and judgment passed dated 19/3/2013 on the file of Motor Accident Claims Tribunal-cum-III Additional District Judge (FTC) at Ongole.

IA NO: 1 OF 2013(MACMAMP 3888 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 stay for all further proceeding in M.V.O.P.No. 473 of 2011 on the file of the Motor Accidents Claims Tribunal-Cum-III Additional District Judge, Ongole and pass

IA NO: 4 OF 2013(MACMAMP 30286 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

IA NO: 1 OF 2024

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 Pleaded to condone the delay of 510 days in filing the abatement set aside petition and bring the Legal Representatives of the deceased Respondent No. 1 form the date of death of knowledge ie., 18-01-2023 on the file and pass

IA NO: 2 OF 2024

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 Pleaded to set aside the abatement caused due to the death of the petitioner in above MACMA No. 1551 of 2013 and pass

IA NO: 3 OF 2024

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 Pleased to bring the Proposed Respondent herein on record as legal representatives of the deceased Respondent No. 1 in above MACMA No. 1551 of 2013 as Respondent No. 4 and 5 and pass

Counsel for the Appellant:

1.S MURALI MOHAN

Counsel for the Respondent(S):

1.MADHAVA RAO NALLURI

The Court made the following:

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA**M.A.C.M.A.No.1551 of 2013****JUDGMENT:****Introductory:**

1. Respondent No.3 in M.V.O.P.No.473 of 2011 on the file of the Motor Accidents Claims Tribunal-cum-III Additional District Judge (FTC), Ongole (for short, "the learned MACT"), filed the present appeal questioning the Award dated 19.03.2013 passed by the learned MACT, whereunder the petition filed under Section 166 of the Motor Vehicles Act claiming a compensation of Rs.15,00,000/- for the injuries sustained in a motor vehicle accident was partly allowed, awarding a sum of Rs.11,50,000/- with interest at 9% per annum from the date of petition till realization, fastening the liability jointly and severally on the respondents therein.
2. Respondent No.1 herein is the claimant before the learned MACT. Respondent Nos.2 and 3 herein are the driver and owner of the lorry bearing Registration No. AP 07 U 4129 (hereinafter referred to as "the offending vehicle").
3. During the pendency of the appeal, the claimant died and Respondent Nos.4 and 5 were brought on record as his legal representatives.

4. For the sake of convenience, the parties will be hereinafter referred to as “the claimant” and “the respondents” as and how they are arrayed in the impugned proceedings.

Case of the Claimant:

5. The claimant was working as a Volvo Bus Driver in Kaleswari Travels, Vijayawada, earning a monthly salary of Rs.15,000/- including batta.

(ii). While so, on 05.11.2011 at about 10:30 p.m., he was driving the bus bearing Registration No. AP 31 TT 1112 from Lakdikapul, Hyderabad and when it reached near Ghat Nemalapuri on Hyderabad-Nagarjuna Sagar Road at about 01:00 a.m., the offending vehicle came in the opposite direction, driven by its driver in a rash and negligent manner in high speed and dashed. As a result, the claimant sustained grievous injuries, including crush injury to his right leg. The claimant was immediately shifted to Devarakonda Government Hospital and subsequently to Aware Global Hospitals, Hyderabad, where he underwent surgery and spent Rs.1,20,000/- towards treatment, medical, nursing and accommodation etc.

(iii). A case in Crime No.162 of 2011 under Section 337 and 338 IPC was registered by Gudipalli Police Station, Nalgonda District against the driver of the offending vehicle.

(iv). The claimant is suffering permanent total disability due to the amputation of his right leg and was unable to continue his profession as a bus driver.

(v). The accident occurred solely due to the rash and negligent driving of the offending vehicle by Respondent No.2, who was employed by Respondent No.1/Owner of the lorry. Therefore Respondent Nos.1 to 3 are jointly and severally liable to pay compensation.

Case of the Insurance Company:

6(i). The manner of accident, nature of injuries, age, occupation and income of the claimant shall be strictly proved.

(ii). The accident occurred due to contributory negligence, as there was a head-on collision between the lorry / offending vehicle and the Volvo Bus belonging to Kalaswara Travels.

(iii). The owner of the Volvo Bus is not impleaded and the claimant suppressed material facts.

(iv). The claimant shall prove permanent disability and loss of earning capacity.

(v). Quantum of compensation claimed is excessive.

7. On the strength of pleadings, the learned MACT framed the following issues for trial:

1. Whether the accident occurred due to rash and negligent driving of the lorry bearing No. AP 07 U 4129 by its driver?

2. Whether the petitioner is entitled to claim any compensation? If so, for what amount and from whom?
3. To what relief?

Evidence before the learned MACT:

8. From the claimant side, claimant as P.W.1 and one A. Sanjay, Doctor, as P.W.2 and One V. Suresh Kumar, Accountant of Kaleswari Travels, as P.W.3 were examined.

(ii). The claimant relied on Ex.A1 to Ex.A16 and Exs.X1 and X2 which include FIR, medico-legal record, scene observation report, charge sheet, disability certificate, discharge summary, medical bills and salary certificate.

(iii). On behalf of the respondents, R.W.1-one A. Suseela Devi was examined and Exs.B1 to Ex.B5 were marked, which include the insurance policy, FIR copy with report, rough sketch, observation report and charge sheet.

Findings of the learned MACT:

9. The learned MACT, upon appreciation of oral and documentary evidence, held that the accident occurred due to rash and negligent driving of the offending vehicle by its driver.

10. Rejected the plea of contributory negligence and fastened liability upon the respondents, including the present appellant–Insurance Company.

11. With regard to disability, the learned MACT accepted the disability certificate showing 70% permanent disability and awarded compensation towards loss of future earning capacity.

12. The learned MACT awarded, in all, a sum of Rs.11,50,000/-.

Arguments in the Appeal:

For the Appellant – Insurance Company:

13(i). The learned MACT failed to consider the evidence of R.W.1 and Exs.B2 to B5, which establish contributory negligence on the part of the Volvo Bus.

(ii). The owner of the Volvo Bus was not impleaded and therefore the claim petition itself is defective.

(iii). The disability certificate is not proved in accordance with law, as the Doctor who issued the certificate is not examined.

(iv). The compensation awarded under various heads are excessive and without proper evidence.

(v). The rate of interest awarded is on the higher side.

For the Respondents:

14. The learned counsel appearing for the claimant/legal representatives supported the award passed by the learned MACT, contending that the findings are based on proper appreciation of evidence and that the compensation awarded is just and reasonable considering the nature of injuries and permanent disability. However, it is claimed for awarding just compensation by enhancing

the same, as there is no bar to enhance the compensation even if the appeal is not filed by the victims.

15. The points that arise for determination in this appeal are:

1) Whether the liability fixed on the appellant viz. Respondent No.3 before the learned MACT is proper and whether the quantum of compensation awarded is just and reasonable or requires any modification if so, to what extent?

2) what is the result of the appeal?

Point No.1:

Mode of proving the accident, negligence and liability etc.

16. In the context of objections, it is also relevant to note that the appreciation of evidence in answering the question of fact as to negligence in a motor accident claim, the learned MACT can rely on the official records adopting the theory of probability with a holistic approach. This approach stands fortified with the aid of provisions of Motor Vehicles Act and the Rules and also the observations of the Hon'ble Apex Court, as follows:

Statutory Guidance:

17(i). It is relevant to note that the A.P. Motor Vehicles Rules, 1989 are applicable in deciding the cases by Motor Accidents Claims Tribunals and they are made in exercise of powers conferred under Section 176 of the Motor Vehicles Act which reads as follows:

176. Power of State Government to make rules.—A State Government may make rules for the purpose of carrying into effect the provisions of sections 165 to 174, and in particular, such rules may provide for all or any of the following matters, namely:—

(a) the form of application for claims for compensation and the particulars it may contain, and the fees, if any, to be paid in respect of such applications;

(b) the procedure to be followed by a Claims Tribunal in holding an inquiry under this Chapter;

(c) the powers vested in a Civil Court which may be exercised by a Claims Tribunal;

(d) the form and the manner in which and the fees (if any) on payment of which an appeal may be preferred against an award of a Claims Tribunal; and

(e) any other matter which is to be, or may be, prescribed.

(ii). Chapter '11' of the A.P. Motor Vehicles Rules, 1989 commencing from Rule 455 to Rule 476A deals with the powers of the Tribunal and all other allied aspects like form of application, registration, notice to parties, appearance and examination of parties, local inspection, summary examination of parties, method of recording evidence, adjournments, framing and determination of issues, judgments and enforcements of awards, Court fee relating to claim petitions applicability of Civil Procedure Code and the application for claim basis to award the claim by the claims tribunal. Rule 476 of the A.P. Motor Vehicles Rules, 1989 reads as follows:

Rule 476: Application for claim :-

(7) Basis to award the claim :- The Claims Tribunal shall proceed to award the claim on the basis of;-

(i) Registration Certificate of the Motor Vehicle involved in the accident;

(ii) Insurance Certificate or Policy relating to the insurance of the Motor Vehicle against the Third party risk;

(iii) Copy of First Information Report;

(iv) Post-mortem certificate or certificate of inquiry from the Medical Officer; and

(v) The nature of the treatment given by the Medical Officer who has examined the victim.

(7A) Specification of amount of compensation awarded by the Tribunal to each victim:- Where compensation is awarded to two or more persons, the Claims Tribunal shall also specify the amount payable to each of them.

18. As per Rule 476 of the A.P. Motor Vehicles Rules, 1989, the crime record can be the basis. The official acts done are presumed to be proper until a contrary is proved particularly when some statutory recognition is given to such official records.

19. It is relevant to note that in view of the summary nature and mode of enquiry contemplated under Motor Vehicles Act and social welfare nature of legislation the Tribunal shall have holistic view with reference to facts and circumstances of each case. It is sufficient if there is probability. The principle of

standard of proof, beyond reasonable doubt cannot be applied while considering a claim seeking compensation for the death or the injury on account of road accident. The touch stone of the case, the claimants shall have to establish is preponderance of probability only. The legal position to this extent is settled and consistent.

Precedential Guidance:

20. 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 evidence:

21. P.W.1 is an injured eye witness to the accident. His evidence is clear and categorical. R.W.1 is an official of the Insurance Company is not an eye witness to the accident; her evidence is not helpful to draw any interference on the point of negligence etc. Ex.A1-FIR shows that one B. Chandraiah is arrayed as accused. Said B. Chandraiah is the driver of the offending vehicle and he is

¹ 2009 (13) SCC 530

arrayed as respondent No.1 all through. He remained *ex parte* before the learned MACT. Even the owner of the offending vehicle remained *ex parte*. No steps are taken to examine them.

22. Ex.B5 is the charge sheet. Charge sheet was laid against respondent No.1 / B. Chandraiah. The evidence of P.W.1 coupled with Ex.A1 and Ex.A5 is found sufficient to believe the negligence, particularly in the light of the statutory and precedential guidance mentioned above. To believe that there was contributory negligence on the part of P.W.1, the proper person to speak is Respondent No.1. What prevented the appellant from summoning respondent No.1 is not explained. Except suggesting that the claimant himself caused the accident, nothing is elicited. Ex.A5 charge sheet was laid on the basis of the evidence of all other witnesses too. P.W.1 deposed clearly that he was on the left side of the road and the offending vehicle came in the opposite direction with high speed and dashed. It is not known what happened to the criminal case laid against respondent No.1.

23. In the absence of any convincing material to believe contributory negligence from the side of petitioner / clamant, the necessity of impleadment of the owner and the Insurance Company of the bus which the claimant was driving cannot be accepted. Therefore, this objection of the Insurance Company that the petition is bad for non-joinder and that there was contributory negligence on the

part of the claimant is only imaginary. Hence, the objection in that regard is rejected.

Quantification of compensation:

Precedential Guidance:

24. 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, 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

²2025 AIAR (Civil) 1

³2020 (04) SCC 413

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	xxxxx
	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 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.”

⁴2010(10)SCC 341

⁵ 2007 (14) SCC 61

⁶ 1992(2) SCC 567

(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 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.

⁷ 2011 (1) SCC 343

(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.*

Analysis of evidence:

25. It is evident from the record that the claimant was working as a driver by the date of accident. He suffered amputation, which is mentioned as 70% disability under Ex.A8. The treatment undergone by the petitioner is indicated by his evidence and the evidence of doctor who treated him.

⁸ 2023 (3) SCC 439

⁹ 1995 (1) SCC 551

(ii). Petitioner claimed that he was shifted to Government Hospital at Devarakonda for first aid. From there, he was shifted to Aware Global Hospitals, Hyderabad for better treatment and was an inpatient, incurring Rs.1,20,000/- towards medical expenses and loss the livelihood. He has relied on Ex.A8 disability certificate, Exs.A9 to A14 are cash bills. Ex.A15 is the inpatient bill to vindicate his stand as to the treatment undergone and expenditure incurred.

26(i). P.W.2 is Doctor A. Sanjay, Senior Consultant in Global Hospital, Hyderabad. His evidence is that claimant was admitted to the hospital on 06.11.2011, the date of accident is 05.11.2011. Surgery was conducted as blood supply could not be restored to the right leg and amputation above the right knee was opted. Ex.A2 and Ex.A9 to Ex.A15 was issued by their hospital. Ex.A16 is the discharge summary.

(ii). During cross-examination, P.W.2 has stated that Ex.A9 to A14 were not accompanied by prescriptions. It was elicited that he is not concerned with the bills.

27. P.W.3 V. Suresh Kumar stated about the employment of the petitioner as working as a driver at Sri Kaleswari Travels and payment of salary at Rs.9,000/-. Ex.A9 is standing for Rs.3,375/-. Exs.A10, A11 and A12 are standing for Rs.1,200/- each, Ex.A13 is standing for Rs.3,605/-, Ex.A14 is standing for Rs.665.87/- and Ex.A15 is standing for Rs.80,143/-.

28. From the evidence covered by Ex.A9 to Ex.A15 and from the evidence of P.W.2, the claimant undergoing treatment and incurring medical expenditure can be safely accepted. With regard to disability, since the petitioner suffered amputation, functional disability can be accepted at 100%.

29. The income of the claimant can be safely taken at Rs.9,000/- per month and up to 20% can be added towards future prospects considering his age as 43 years, whereby the income comes to around Rs.11,000/- per month and Rs.1,32,000/- per annum. For the age of '43' years, the multiplier applicable is '14'. Upon application of the same, the entitlement of the claimant under the head of loss of income due to permanent disability comes to Rs.18,48,000/- (1,32,000/- x 14).

30. In the light of the precedential guidance and 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:

Sl. No.	Head	Granted by the learned MACT	Fixed by this Appellate Court
1.	Pain and suffering	Rs.50,000/-	Rs.50,000/-
2.	Transportation	Rs.10,000/-	Rs.10,000/-
3.	Medical expenditure/treatment	Rs.90,000/-	Rs.90,000/-
4.	Extra nourishment	Rs.15,000/-	Rs.15,000/-
5.	Attendant charges		Rs.10,000/-

6.	Loss of income / earnings during the period of hospitalization etc.	Rs.50,000/-	Rs.10,000/-
7.	Loss of income due to permanent disability / Loss of future earning capacity	Rs.9,00,000/-	Rs.18,48,000/-
8.	Loss of amenities and enjoyment of life	Rs.35,000/-	Rs.50,000/-
	Total:	Rs.11,50,000/-	Rs.20,83,000/-

31. For the reasons aforesaid and in view of the discussion made above, the point framed is answered in favour of the claimants concluding that the claimant is entitled for compensation of Rs.20,83,000/- with interest at the rate of 6% per annum and the award and decree dated 19.03.2013 passed by the learned MACT in M.V.O.P.No.473 of 2011 require modification accordingly.

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

32. 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**¹⁰, 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.**¹¹ 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**¹² 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. 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,

¹⁰ (2003) 2 SCC 274

¹¹ 2020 (04) SCC 413

¹² (2019) 2 SCC 192

there is no need for a new cause of action to claim an enhanced amount. The courts are duty-bound to award just compensation.”

33. Awarding more compensation than what claimed and awarding compensation to the claimant even in the absence of any appeal or cross objections by the claimant require examination.

Enhancement of compensation in the absence of appeal by the claimant:

34(i). Whether the compensation can be enhanced in the absence of an appeal or cross appeal by the claimant. The legal position as to powers of the Appellate Court particularly while dealing with an appeal in terms of Section 173 of the Motor Vehicles Act, 1988, where the award passed by the learned MACT under challenge at the instance of the Insurance Company (Respondents) and bar or prohibition if any to enhance the quantum of compensation and awarding just and reasonable compensation, even in the absence of any appeal or cross objections was considered by the Division Bench of this Court in a case between ***National Insurance Company Limited vs. E. Suseelamma and others***¹³ in M.A.C.M.A. No.945 of 2013, while answering point No.3 framed therein vide, para 50 of the judgment, which reads as follows:

50. In our considered view, the claimant/respondents are entitled for just compensation and if on the face of the award or even in the light of the evidence on record, and keeping in view the settled legal position regarding the claimants being entitled to just compensation

¹³ 2023 SCC Online AP 1725

and it also being the statutory duty of the Court/Tribunal to award just compensation, this Court in the exercise of the appellate powers can enhance the amount of compensation even in the absence of appeal or cross-objection by the claimants.

(ii). Observations made by the Division Bench of this Court in ***National Insurance Company Limited vs. E. Suseelamma and others*** (13 supra) case are in compliance with the observations of Hon'ble Apex Court in ***Surekha and Others vs. Santosh and Others***¹⁴.

(iii). In ***Surekha and Others vs. Santosh and Others*** (14 supra) case, in Civil Appeal No.476 of 2020 *vide* judgment dated 21.01.2020, three judges of the Hon'ble Supreme Court observed that "it is well stated that in the matter of Insurance claim compensation in reference to the motor accident, the Court should not take hyper technical approach and ensure that just compensation is awarded to the affected person or the claimants". While addressing a case where the High Court has declined to grant enhancement on the ground that the claimants fail to file cross appeal above observations are made.

Point No.2:

35. In the result, the appeal filed by the Insurance Company *vide* M.A.C.M.A.No.1551 of 2013 is dismissed as follows:

¹⁴ (2021) 16 SCC 467

- (i) Compensation awarded by the learned MACT in M.V.O.P.No.473 of 2011 at Rs.11,50,000/- with interest at the rate of 9% per annum is modified to Rs.20,83,000/- with interest at the rate of 6% 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) **Apportionment:**
 - (a) Respondents No.4 herein / wife of the claimant is entitled to Rs.12,83,000/- with proportionate interest.
 - (b) Respondent No.5 herein / daughter of the claimant is entitled to Rs.8,00,000/- with proportionate interest.
- (iv) Respondent No.3 /Insurance Company before the learned MACT is liable to pay the compensation.
- (v) Time for payment /deposit of the balance amount is two months.
 - (a) If respondent Nos.4 and 5 herein, who are legal representatives of the claimant, furnish the bank account number within 15 days from today, respondent No.3 / Insurance Company shall deposit the amount directly into the bank account(s) of the respondent Nos.4 and 5 and file the necessary proof before the learned MACT.
 - (b) If the respondent Nos.4 and 5 herein fail to comply v(a) above, respondent No.3/Insurance Company shall deposit the amount

before the learned MACT and the respondent Nos.4 and 5 are entitled to withdraw the amount at once on deposit.

(vi) There shall be no order as to costs, in the appeal.

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

A. HARI HARANADHA SARMA, J

Date:27.02.2026
Knr

HON'BLE SRI JUSTICE A. HARI HARANADHA SARMA

M.A.C.M.A.No.1551 of 2013

27.02.2026

KnR