

*** THE HON'BLE JUSTICE B.R.MADHUSUDHAN RAO**

+ MACMA.Nos.116 and 159 of 2022

% 13—06—2025

MACMA.No.116 of 2022

Vaishali Lohana and others. ... Appellants

vs.

\$ The Depot Manager APSRTC,
Gunture Depot-II Guntur,
Andhra Pradesh State and another. ... Respondents

MACMA.No.159 of 2022

The Depot Manager APSRTC,
Gunture Depot-II Guntur,
Andhra Pradesh State and another. ... Appellants

vs.

\$ Vaishali Lohana and others. ... Respondents

!Counsel for the Petitioners: Mr.M.Lingam
(in MACMA.No.116 of 2022)

: Mr.K.Srinivas Rao
(in MACMA.No.159 of 2022)

^Counsel for Respondents : Mr.K.Srinivas Rao
(in MACMA.No.116 of 2022)

: Mr.M.Lingam
(in MACMA.No.159 of 2022)

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>Head Note :

? Cases referred:

1. 2012 (6) ALD 412
2. 2022 LiveLaw (SC) 841
3. 2019 ACJ 1070
4. 2023 ACJ 337
5. 2009 (6) SCJ 368
6. 2003 (2) SCC 274
7. 2014 ACJ 2648 (SC)
8. (2017) 6 SCC 680
9. 2022 SCC OnLine SC 1683

IN THE HIGH COURT FOR THE STATE OF TELANGANA
HYDERABAD

* * * *

MACMA.Nos.116 and 159 of 2022

Between:

MACMA.No.116 of 2022

Vaishali Lohana and others. ... Appellants

vs.

The Depot Manager APSRTC,
Gunture Depot-II Guntur,
Andhra Pradesh State and another. ... Respondents

MACMA.No.159 of 2022

The Depot Manager APSRTC,
Gunture Depot-II Guntur,
Andhra Pradesh State and another. ... Appellants

vs.

Vaishali Lohana and others. ... Respondents

JUDGMENT PRONOUNCED ON: 13.06.2025

THE HON'BLE JUSTICE B.R.MADHUSUDHAN RAO

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

B.R.MADHUSUDHAN RAO,J

THE HON'BLE JUSTICE B.R.MADHUSUDHAN RAO

MACMA.Nos.116 and 159 of 2022

COMMON JUDGMENT:

MACMA.No.116 of 2022:

1. This MACMA is filed by the claimants aggrieved by the award and decree passed in MVOP.No.566 of 2017 by Motor Accidents Claims Tribunal-cum-Chief Judge, City Civil Court, Hyderabad (for short, 'the Tribunal'), dated 12.01.2022 for enhancement of compensation.

MACMA.No.159 of 2022:

2. This MACMA is filed by APSRTC aggrieved by the award and decree passed in MVOP.No.566 of 2017 by Motor Accidents Claims Tribunal-cum-Chief Judge, City Civil Court, Hyderabad, (for short, 'the Tribunal') dated 12.01.2022 and prayed to set aside the award.

3. Appellant Nos.1 and 2 are parents and appellant No.3 is the sister of the deceased Abhilit Lohana (MACMA.No.116 of 2022).

4. The claim of the claimants before the claims Tribunal is for Rs.15,00,000/-.

5. Learned counsel for the appellants in MACMA No.116 of 2022 submits that the award passed by the Tribunal is too meager and is liable

to be enhanced. The Tribunal has wrongly taken the age of the parents and applied multiplier 14 instead of 18 as per the age of the deceased. The Tribunal has taken Rs.8,000/- per month as earning of the deceased instead of Rs.15,000/- per month who was the partner of Awwal Meals and Tiffin Centre. The Tribunal has completely erred in quantification of the compensation concerned and prayed to enhance the same. In support of his contention he relied on the decisions in the cases of (i) G.Jayalaxmi and others vs. Syed Anwar Hussain Quadri and others¹, (ii) Meena Devi vs. Nunu Chand Mahto @ Nemchand Mahto ², (iii) Gajraj Singh and another vs. Pawan Kumar and another³ and (iv) Rakesh Arora and another vs. Bharti Axa General Ins. Co. Ltd.⁴.

6.1 Learned counsel for the appellants in MACMA.No.159 of 2022 submits that the Tribunal erred in awarding excess and exorbitant compensation for the death of the deceased without following the principles and procedures under the Motor Vehicles Act (for short 'the MV Act'). There is no negligence on the part of the driver of APSRTC bus bearing No.AP-07-Z-0243 of Guntur II Depot. On 22.05.2006, at 1.30 p.m. the driver of the APSRTC bus was proceeding from KPHB to MGBS and reached Koti terminal and was proceeding slowly due to heavy traffic, negotiating a turning at that time the deceased was a pillion rider on

¹ 2012 (6) ALD 412

² 2022 LiveLaw (SC) 841

³ 2019 ACJ 1070

⁴ 2023 ACJ 337

Honda Activa bearing No. AP-09-A-6705 was holding sambar bucket, chutney bucket, idly batter in a pot and a gas cylinder. The driver of the Honda Activa was trying to overtake the bus from its left side and lost control over the vehicle due to heavy load on the bike and fallen on the road, as a result the gas cylinder fell on the deceased, the deceased sustained injuries and died. The accident took place due to the negligence of the driver of the motor cycle hence the driver of the RTC bus is not negligent and is not liable to pay any compensation.

6.2. The Tribunal erred in coming to a conclusion that accident occurred due to the rash and negligent driving of the driver of APSRTC bus. The owner and insurer of the motor cycle were not made as parties to the claim petition. Therefore, the claim petition has to be dismissed for non-joinder of necessary parties. The Tribunal ought to have held that there is contributory negligence on the part of the deceased and apportioned the liability atleast 50%-50%. The Tribunal has also erred in taking the annual income of the deceased at the rate of Rs.8,000/- and adding 50% future prospects without there being any proof. The Tribunal ought to have taken Rs.15,000/- per annum as per schedule II of the MV Act. The award of compensation of Rs.10,78,000/- is highly excessive and out of all proportions, prayed to set aside the award dated 12.01.2022.

7. Heard learned counsel for the parties and perused the record.

8. Now the points for consideration are

- 1) Whether the appellants in MACMA.No.116 of 2022 dated 12.01.2022 have made out any case for enhancement of the compensation.
- 2) Whether the appellants in MACMA.No.159 of 2022 have made out any case to set aside the award passed by the Tribunal in MVOP.No.566 of 2017, dated 12.01.2022.

Point Nos.1 and 2:

9. It is the contention of the appellants in MACMA.No.159 of 2022 that the deceased was pillion rider on Honda Activa bearing No.AP-09-A-6705, was holding sambar bucket, chutney bucket, idly batter in another pot and a gas cylinder and that the rider of the Honda Activa was trying to over take the bus from left side and lost balance over the vehicle, fell down on the road, pillion rider sustained injuries and died. The Tribunal ought to have apportioned the liability at least 50%-50%.

10. APSRTC has taken a ground in appeal that claim petition is bad for non-joinder of owner and insurer of Honda Activa. There is no pleading by the APSRTC in the counter filed by them before the Tribunal, hence the same is negatived.

11. Supreme Court in Bimla Devi and others vs. Himachal Road Transport Corporation and other⁵ observed as follows:

⁵ 2009 (6) SCJ 368

“It was necessary to 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.”

12. The above said principle is reiterated in G.Jayalaxmi's case¹.

13. The driver of APSRTC bus is examined as RW1 and he got marked Ex.B1 to show that he was acquitted in C.C.No.671 of 2016 on the file of the II Additional Chief Metropolitan Magistrate, Hyderabad. Whether the acquittal of RW1 is germinate to see that it is the driver of the Honda Activa was at fault. PW2 is the eye witness to the incident, he deposed that it is the driver of the APSRTC bus, who drove the vehicle in rash and negligent manner, which caused the accident due to which the pillion rider sustained injuries and died.

14. PW1 is the father of the deceased and he got marked Ex.A1 certified copy of FIR, Ex.A2/inquest report, Ex.A3/charge sheet and Ex.A7/rough sketch. PW2 was cross-examined by the RTC counsel wherein he stated that he possess valid driving license but the same was lost at the time of the accident. PW2 denied the suggestion that the pillion rider was carrying sambar bucket, chutney bucket, idly batter and gas cylinder, due to which he lost control and came in contact on the left side portion of the bus. RW1 admitted in his cross examination that a criminal case is registered against him and simultaneously departmental enquiry has also been

conducted and he is kept as a spare for some time. Except the testimony of RW1 no evidence is put forth by the RTC to substantiate their contention that pillion rider was holding sambar bucket, chutney bucket, idly batter and gas cylinder.

15.1 The Tribunal has observed in its order that RW1 was acquitted for non identification of the driver at the time of accident. The documentary evidence produced by the claimants before the Tribunal coupled with the evidence of PW2 and exhibits marked thereon goes to show that it is the driver of the APSRTC bus who drove the same in rash and negligent manner and caused the accident.

15.2 It cannot be said that it is the driver of the Honda Activa was negligent in driving the vehicle. In the above referred judgment Supreme Court held that the standard of proof beyond reasonable doubt could not have been applied. The acquittal of RW1 in the criminal case by itself is not sufficient to absolve the APSRTC from the liability. The Tribunal has rightly held that the driver of the APSRTC bus drove the same in rash and negligent manner and caused the accident.

16. Learned counsel for the appellants in MACMA.No.116 of 2022 submits that the claimants are entitled for just compensation, and the compensation amount needs to be enhanced.

17. In Nagappa vs. Gurudayal Singh and others⁶, three Judge Bench of Supreme Court observed that there is no restriction that the Tribunal/Court cannot award compensation exceeding the amount so claimed. Which principle is reiterated in Meena Devi's case².

18. It is the case of the claimants/appellants (MACMA.No.116 of 2022) that the deceased Abhilit Lohana was aged about 19 years and was a partner in Awwal Meals and Tiffin Centre, in addition to that he was continuing his studies and earning Rs.15,000/- per month and he used to contribute the same for the welfare of the family. The Tribunal has assessed the income of the deceased at Rs.8,000/- per month as compared to the notional income of an engineering student. The Tribunal has observed that the deceased studied intermediate with 'C' grade that is below average marks and applied the multiplier as '14' by taking the age of the parents and awarded following amounts:

S.No.	Name of the Head	Amount awarded by the Tribunal
1.	Monthly income	Rs.8,000/-
2.	Added 50% future prospects	Rs.12,000/- (8,000 + (50% of 8,000 = 4,000))
3.	Deducted 50% towards personal expenses	Rs.6,000/- (12,000 – 6,000)
4.	Multiplier '14'	Rs.84,000/- (14 x 6,000)
5.	Annual income	Rs.10,08,000/- (84,000 x 12)

⁶ 2003 (2) SCC 274

6.	Funeral expenses, loss of love and affection, loss of estate, loss of filial consortium	Rs.70,000/-
7.	Total	Rs.10,78,000/-

19. Ex.A8 is the Board of Secondary Education Certificate of March, 2014 regular of the deceased Lohana Abhilit. The grade points average is 7.0. Ex.A9 is the Telangana State Board of Intermediate Education, Hyderabad of second year memorandum of marks of the deceased Lohana Abhilit. His result is 'C' grade that is above 50% and less than 60%.

20. In Gajraj Singh's case³ the High Court of judicature at Allahabad has taken the monthly income of the deceased who was aged about 19 years and was a student of class 12 as Rs.15,000/- per month by taking into consideration the view taken by the Supreme Court in Ashvinbhai Jayantilal Modi vs. Ramkaran Ramchandra Sharma⁷ wherein the Supreme Court held that the notional income in such matters should be Rs.25,000/- per month.

21. Coming to the case on hand, the deceased has completed his 12th standard which is evident from Ex.A9 and if he would have been alive he would have pursued his higher studies and would have served his family members in the better way on the basis of his income. The Tribunal ought to have taken the earnings of the deceased as Rs.15,000/- per month but

⁷ 2014 ACJ 2648 (SC)

erroneously took Rs.8,000/- per month as the deceased was below average candidate. The findings of the Tribunal in respect of the income of the deceased has to be modified and the income of the deceased is taken as Rs.15,000/- per month.

22. The Tribunal has applied multiplier 14 by taking the age of the parents of the deceased.

23. In Rakesh Arora's case⁴, the Supreme Court held that in case of a bachelor the choice of multiplier is to be determined by the age of the deceased and not by the age of the claimant/mother. The age of the deceased is mentioned as 19 years in the claim petition, which is also the same in Ex.A2/postmortem examination report and the proper multiplier would be '18'.

24. The appellant Nos.1 and 2 in MACMA.No.116 of 2022 are entitled for parental consortium at the rate of Rs.40,000/- each and also entitled for loss of estate and funeral expenses at the rate of Rs.15,000/- each as per National Insurance Company vs. Pranay Sethi⁸. The future prospects of the deceased to be added at the rate of 50%.

25.1 The following is the compensation awarded to the appellants in MACMA.No.116 of 2022 which reads as under:

⁸ (2017) 6 SCC 680

Sl.No.	Name of the Head	Amount awarded
1.	Monthly income	Rs.15,000/-
2.	Add 50% future prospects	Rs.22,500/- ((50% of 15,000=7,500) + 15,000)
3.	50% deductions towards personal expenses	Rs.11,250/- (50% of 22,500 = 11,250)
4.	Multiplier '18'	Rs.2,02,500/- (11,250 x 18)
5.	Annual income	Rs.24,30,000/- (2,02,500 x 12 = 24,30,000)
6.	Parental consortium (Rs.40,000/- each)	Rs.80,000/-
7.	Funeral expenses	Rs.15,000/-
8.	Loss of estate	Rs.15,000/-
9.	Total	Rs. 25,40,000/-

25.2 The above said amount shall carry interest at the rate of 9% per annum as per the decision of the Supreme Court in Anjali and Others vs. Lokendra Rathod and others⁹.

26.1 Total compensation awarded is Rs.25,40,000/- along with interest at the rate of 9% per annum from the date of filing the claim petition till payment with costs.

⁹ 2022 SCC OnLine SC 1683

26.2 The appellant Nos.1 and 2 in MACMA.No.116 of 2022 are entitled for 45% of the awarded amount each (Rs.11,43,000/- each) along with interest and proportionate costs thereon. The appellant No.3 is entitled for 10% of the awarded amount (Rs.2,54,000/-) with costs and interest.

27. In the result,

- (i) MACMA.No.116 of 2022 is allowed.
 - a) The impugned award dated 12.01.2022 passed in MVOP.No.566 of 2017 stands modified.
 - b) The compensation awarded by the Tribunal i.e.,Rs.10,78,000/- is enhanced to Rs.25,40,000/- together with interest at the rate of 9% per annum from the date of filing the petition till payment.
 - c) The appellants shall pay court fee on the enhanced amount.
 - d) Appellant Nos.1 and 2 are entitled to withdraw Rs.11,43,000/- each and appellant No.3 is entitled to withdraw Rs.2,54,000/-, with costs and interest thereon without furnishing security.
 - e) The respondents-APSRTC is hereby directed to deposit the awarded amount with interest and costs less the amount already deposited if

any within a period of 60 days from the date of receipt of a copy of this judgment.

(ii) MACMA.No.159 of 2022 is dismissed.

As a sequel miscellaneous application/applications pending, if any, shall stand closed. No costs.

B.R.MADHUSUDHAN RAO, J

13.06.2025

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