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APHC010193502013



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

[3520]

TUESDAY, THE TWENTY FOURTH DAY OF MARCH
 TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 259/2013

Between:

- 1.Y. MURALI NAIDU AND ANOTHER, S/O SUBRAMANYAM NAIDU R/O
 CHERLOPALLE VILLAGE, PUDIPETLA POST, TIRUAPTHI RURAL,
- 2.Y.DHANUSH NAIDU, S/O MURALI NAIDU AGED 20 YEARS R/O
 CHERLOPALLE VILLAGE, PUDIPETLA POST, TIRUAPTHI RURAL,
 PETITIONER NO.2 IS DECLARED AS A MAJOR AND DISCHARGING
 THE GUARDIANSHIP OF THE 1ST PETITIONERS VIDE COURT ORDER
 DATE. 18.03.2025 IN IA.NO.1/2025

...APPELLANT(S)

AND

- 1.V GANGAIAH AND ANOTHER, S/O MUNIRATHNAM, AGE; MAJOR R/O
 1-9, PAIDIPALLE VILLAGE ANDPOST, CHANDRAGIRI MANDAL,
- 2.M/S THE ORIENTAL INSURANCE COMPANY LIMITED, REP. BY ITS
 DIVISIONAL MANAGER, O/AT N.T.ROAD, TIRUPATHI, CHITTOOR
 DISTRICT.

...RESPONDENT(S):

Counsel for the Appellant(S):

1.P JAGADISH CHANDRA PRASAD

Counsel for the Respondent(S):

1.GUDI SRINIVASU

2..

The Court made the following:

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA
M.A.C.M.A.No. 259 of 2013

JUDGMENT:

Introductory:

[i] The claimants in M.V.O.P No.54 of 2007, before the IV Additional District Judge –cum-Motor Accidents Claims Tribunal, Tirupati, (for short “the learned MACT”), feeling dissatisfied by the quantum of compensation awarded under the impugned Award and decree dated 17.02.2011, filed the present appeal.

[ii] M.V.O.P No.54 of 2007 was filed invoking Section 166 of M.V. Act with a prayer for awarding a compensation of Rs.19,66,700/- for the death of the one S.Radhamma, (hereafter referred as ‘the deceased’) in a Motor Vehicle accident, that occurred on 19.09.2006.

2. The 1st petitioner is the husband and 2nd petitioner is the minor son of the deceased, represented by the 1st petitioner.

3. Respondent No.1 before the learned MACT is the driver of the Tractor and Trailor bearing Nos.AP 03 W 3330 and AP 03 W 3331 respectively (hereinafter referred to as “the offending vehicle”). Respondent No.2 is the insurer.

4. For the sake of convenience, the parties will be hereinafter referred to as the claimants and the respondents with reference to their status before the learned MACT.

Case of the claimants:

5 (i). On 19.09.2006, the deceased was proceeding on a Hero Honda bearing No.AP 03 L 5806 as a pillion rider to attend her duties as staff Nurse at Sri Ramadevi Multi Specialty Hospital, Tripathi, and her husband was riding the vehicle. When they reached near Cherlapalle Circle, the offending vehicle driven by its driver, came in a rash and negligent manner and dashed the motorcycle causing the accident, whereby the deceased fell down and the offending vehicle ran over her causing grievous injuries. When she was shifted to the hospital, it was declared that she was brought dead.

(ii) A case in Crime No.114 of 2006 for the offences under section 337, 304-A and 279 IPC was registered against the driver of the offending vehicle, in M.R.Palle Police Station and later charge sheet was filed.

(iii) The 1st petitioner is husband and the 2nd petitioner is the minor son of the deceased, they are the legal heirs and dependents on the deceased. They lost everything including financial and every support of the deceased. Hence they are entitled for compensation.

(iv) The 1st respondent - driver of the offending vehicle, remained ex-parte before the learned MACT.

Case of the 2nd respondent- Insurance Company:-

6. (i) The petitioners shall prove the age, occupation and income of the deceased and negligent driving of the offending vehicle as well as the compliance of the conditions of Insurance Policy.

(ii) Negligence of the husband of the deceased cannot be ignored and the petition is bad for non-joinder of the owner and injurer of the motorcycle.

Evidence before the Learned MACT:-

On behalf of the petitioners/claimants:

7. (i) The petitioners relied on Exhibits - A1- FIR, A2 -Post-Mortem Certificate, A3- Inquest Report, A4 and A5 - Salary Certificates issued by the hospital where the deceased said to have worked; A6- Death Certificate, A7- Certificates of qualification of the deceased. A8- Charge Sheet.

(ii) Further, the claimants relied on the evidence of 1st petitioner as PW1, PW2- K Prasad eye- witness to the accident; PW3 and PW4 –B.Mohan Murali and Dr.D.B.Sasidhar Reddy, to show the occupation and income of the deceased, etc..

(iii) On behalf of the respondents, no evidence is introduced except placing copy of the Insurance Policy vide Ex.B1.

Findings of the learned MACT:-

8. (i) The learned MACT, relying on the evidence of PW.2- eyewitness and the Crime record, held that the claimants proved the negligence of the driver of the offending vehicle/Tractor and Tractor, and by relying on the evidence of PW.3 and PW.4 and Ex.A4- salary certificate, Ex.A7-Qualification certificates, accepted the income of the deceased at Rs.4158/- per month and Rs.49,896/- per annum; after deducting 1/3rd of the same towards personal expenditure of the deceased, the contribution of the deceased to the petitioners/claimants, accepted @Rs.33,264/-per annum; applied multiplier '17' taking the age of the deceased at 24, and found the entitlement of the petitioners for compensation at Rs.6,07,488/- in all.

Arguments in the appeal:-

For the petitioners/claimants/appellants:-

9. (i) The deceased was working in two hospitals. Two Salary Certificates should have been considered.

(iii) The evidence of PW3 and PW4 is clear as to the employment of the deceased. Particularly the evidence of PW.3 indicates that on becoming

permanent, the deceased will get a salary at Rs.14,000/- per month. It is also submitted for the appellants that, working in two Hospitals, viz., Rama Devi Multiple Specialty Hospital and SVIMS Hospital is not impossible and income from two hospitals should have been taken together in quantifying the compensation.

For the Insurance Company:-

10. (i) The compensation claimed and awarded is excessive; the work of a staff nurse is full time and working in two hospitals and two shifts i.e., day and night is impossible, and the evidence of both PW3 and PW.4 cannot be accepted together. Either of them alone should be accepted.

(ii) The compensation awarded does not require any interference.

11. Perused the material on record.

12. Thoughtful consideration is given to the arguments advanced by both sides.

Scope of the appeal:

13. The appeal is filed by the claimants. There is no cross-appeal by the Insurance Company. Therefore, the entitlement of the claimants and the liability of the Insurance Company are out of dispute.

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

1) Whether the compensation of Rs.6,07,488/- with interest at the rate of 6% per annum awarded by the learned MACT in M.V.O.P.No.54 of 2007 under the impugned order and decree dated 17.02.2011 is just and reasonable or require any enhancement? If so, to what tune?

2) What is the result of the appeal?

Point No.1:

Quantum of compensation:

Precedential guidance:

15 (i). For having uniformity of practice and consistency in awarding just compensation, the Hon'ble Apex Court provided guidelines as to adoption of multiplier depending on the age of the deceased in ***Sarla Verma (Smt.) and Ors. vs. Delhi Transport Corporation and Anr.***¹ and also the method of calculation as to ascertaining multiplicand, applying multiplier and calculating the compensation *vide* paragraph Nos.18 and 19 of the Judgment.

(ii). Further, the Hon'ble Apex Court in ***National Insurance Company Ltd. vs. Pranay Sethi and Others***² case directed for adding future prospects at 50% in respect of permanent employment where the deceased is below 40

¹ 2009 (6) SCC 121

² 2017(16) SCC 680

years, 30% where deceased is between 40-50 years and 15% where the deceased is between 50-60 years. Further, in respect of self-employed etc., recommended addition of income at 40% for the deceased below 40 years, at 25% where the deceased is between 40-50 years and at 10% where the deceased is between 50-60 years. Further, awarding compensation under conventional heads like loss of estate, loss of consortium and funeral expenditure at Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively is also provided in the same Judgment.

(iii). Further in ***Magma General Insurance Company Ltd. vs. Nanu Ram and Others***³, the Hon'ble Apex Court observed that the compensation under the head of loss of consortium can be awarded not only to the spouse but also to the children and parents of the deceased under the heads of parental consortium and filial consortium.

Just Compensation:

16 . In ***Rajesh and others vs. Rajbir Singh and others***⁴, the Hon'ble Supreme Court in para Nos.10 and 11 made relevant observations, they are as follows:

³ (2018) 18 SCC 130

⁴ (2013) 9 SCC 54

10. *Whether the Tribunal is competent to award compensation in excess of what is claimed in the application under Section 166 of the Motor Vehicles Act, 1988, is another issue arising for consideration in this case. At para 10 of Nagappa case [Nagappa v. Gurudayal Singh, (2003) 2 SCC 274 : 2003 SCC (Cri) 523 : AIR 2003 SC 674] , it was held as follows: (SCC p. 280)*

“10. Thereafter, Section 168 empowers the Claims Tribunal to ‘make an award determining the amount of compensation which appears to it to be just’. Therefore, the only requirement for determining the compensation is that it must be ‘just’. There is no other limitation or restriction on its power for awarding just compensation.”

The principle was followed in the later decisions in Oriental Insurance Co. Ltd. v. Mohd. Nasir [(2009) 6 SCC 280 : (2009) 2 SCC (Civ) 877 : (2009) 2 SCC (Cri) 987] and in Ningamma v. United India Insurance Co. Ltd. [(2009) 13 SCC 710 : (2009) 5 SCC (Civ) 241 : (2010) 1 SCC (Cri) 1213]

11. *Underlying principle discussed in the above decisions is with regard to the duty of the court to fix a just compensation and it has now become settled law that the court should not succumb to niceties or technicalities, in such matters. Attempt of the court should be to equate, as far as possible, the misery on account of the accident with the compensation so that the injured/the dependants should not face the vagaries of life on account of the discontinuance of the income earned by the victim.*

Analysis, reasoning and Finding:-

17 (i). As per As per the SSC certificate, Ex.A7- the Certificates of qualifications of the deceased including the SSC-certificate, her date of birth is 30.04.1982, the date of accident is 19.9.2006. Therefore, the deceased is aged around '24' years by the date of accident. From the qualification Certificates, it is clear that the deceased was eligible to work as a staff nurse and as per the salary certificates and the evidence of PW3 and 4, the occupation of the deceased as a staff nurse is acceptable.

(ii) As per the evidence of PW3, the deceased was getting a salary of Rs.4,158/- and a staff nurse of contract basis gets Rs.6,765/- per month. As per PW4, the deceased was working as a part-time nurse and Rs.2400/- was paid to her @80/- per day. If both incomes are added, the income of the deceased would come to Rs.9165/-. However, for want of the evidence, like deposit into bank accounts etc., it can be taken that the claimants put the Court to guesswork.

18. Learned MACT taken the income of the deceased at Rs.4158/- with reference to the evidence of PW3 and Ex.A4, ignoring the other evidence. In view of the age of the deceased, 40% addition to the income of the deceased is reasonable towards future prospects. Although PW3 stated that contract-based staff nurses are being paid Rs.6765/- and on permanent basis, they will get

Rs.14000/-, he is not clear as to whether the deceased is working on contract basis or on permanent basis. However, the income of the deceased in the factual scenario can be safely accepted @Rs.6000/- per month, particularly upon considering the socio-economic background from which the claim arise and the year of the accident.

19. [i] Upon adding future prospects to the income around 40%, the income of the deceased can be taken Rs.8,400/- per month, whereby the annual income comes to Rs.1,00,800/-. If $\frac{1}{3}^{\text{rd}}$ of the same is deducted towards personal expenditure, contribution of the income of the deceased to the petitioners comes to Rs.67,200/- per annum, which can be considered as multiplicand. Multiplier applicable is to the age group the deceased is '18'.

[ii] Upon application of the same, then the entitlement of the claimants/petitioners for the compensation comes to [Rs.67,200/- x 18] @12,09,600/- under the head of loss of dependency. Claimant No.1 is entitled for loss of spousal consortium and he 2nd petitioner is entitled for parental consortium, @Rs.40,000/-each

[iii] Further, the petitioners are entitled for compensation under the conventional heads i.e. Rs.15,000/- towards funeral expenses, Rs.15,000/- towards loss of estate.

20. 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:

Head		Compensation awarded by the learned MACT	Fixed by this Court
(i)	Loss of dependency	Rs.5,65,488/-	Rs.12,09,600/-
(ii)	Loss of estate	Rs.2,500/-	Rs. 15,000/-
(iii)	Loss of Consortium	Rs.15,000/- @ towards petitioner No.1	Rs.80,000/- [Rs.40,000/- each]
(iv)	Funeral expenses	Rs.2,500/-	Rs. 15,000/-
(v)	Transportation	Rs.2,000/-	-Nil-
(vi)	Loss of love and affection	Rs.20,000/-	-Nil-
	Total compensation awarded	Rs.6,07,488/-	Rs.13,19,600/-
	Interest (per annum)	6%	7.5%

21. For the reasons aforesaid and in view of the discussion made above, the point framed is answered concluding that the claimants are entitled for compensation of Rs.13,19,600/- with interest at the rate of 6% per annum from the date of petition till the date of realization and the order and decree dated 17.02.2011 passed by the learned MACT in M.V.O.P.No.54 of 2007 require modification accordingly. Point No.1 is answered accordingly.

Point No.2:

22. In the result, the **appeal is partly allowed** as follows:-

- (i) the compensation awarded by the learned MACT in M.V.O.P.No.54 of 2007 at Rs.6,07,488/- with interest at the rate of 6% per annum is modified and enhanced to Rs.13,19,600/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization.
- (ii) Petitioners are liable to pay the Court fee for the enhanced part of the compensation, before the learned MACT.
- (iii) **Apportionment:**
 - (a) The 1st petitioner/husband is entitled to Rs.5,00,000/- and the 2nd petitioner/son is entitled to Rs.8,19,600/- with proportionate interest and costs.
- (iv) Respondents before the learned MACT are liable to pay the compensation. However, Respondent No.2 is liable in view of the Insurance Policy.
- (v) Time for payment /deposit of balance amount is two months.
 - (a) If the claimants/petitioners furnish the bank account number within 15 days from today, the respondents shall deposit the amount directly into the bank account of the claimants and file the necessary proof before the learned MACT.

(b) If the claimants fail to comply with clause (v)(a) above, the respondents shall deposit the amount before the learned MACT and the claimants are entitled to withdraw the amount at once on deposit.

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

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

A. HARI HARANADHA SARMA, J

Date: 24 .03.2026
Pnr

HON'BLE SRI JUSTICE A. HARI HARANADHA SARMA

M.A.C.M.A.No.259 of 2013

24.03.2026

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