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APHC010008012012

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3520]**
(Special Original Jurisdiction)

TUESDAY, THE 21st DAY OF JULY 2026

PRESENT

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 1243/2012

Between:

1. KARNATI VIJAYALAKSHMI, W/O. VENKATANARAYANA RAO R/O.MEDARAMETLA VILLAGE KORISAPADU MANDAL, PRAKASAM DISTRICT
2. KARNATI VINEELA CHOWDARY, D/O. VENKATANARAYANA RAO R/O.MEDARAMETLA VILLAGE KORISAPADU MANDAL, PRAKASAM DISTRICT
3. KARNATI VAHILA CHOWDARY, D/O. VENKATANARAYANA RAO R/O.MEDARAMETLA VILLAGE KORISAPADU MANDAL, PRAKASAM DISTRICT

...APPELLANT(S)

AND

1. M SIVANANDA REDDY, S/O.SUBBA REDDY OWNER OF THE JEEP NO.AP 27/U-1899 DOOR NO.2-5(A) VENKATAPURAM VILLAGE, KORISPADU MANDAL
2. THE UNITED INDIA INSURANCE COMPANY LIMITED, REP., BY ITS DIVL. MANAGER, CHILAKALURIPET, GUNTUR DISTRICT

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Court

IA NO: 1 OF 2007(MACMAMP 5680 OF 2007

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 227 days in filing the appeal in the interest of justice.

IA NO: 1 OF 2012(MACMAMP 2700 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 declare the appellants 2 and 3 as majors in the interests of justice

Counsel for the Appellant(S):

1. NIMMAGADDA SATYANARAYANA

Counsel for the Respondent(S):

1. V V N NARASIMHAM

2. .

The Court made the following:

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

M.A.C.M.A.No.1243 of 2012

JUDGMENT:

Introductory:

1. One K. Venkata Narayana Rao (hereinafter referred to as "the deceased") died in a road traffic accident that occurred on 24.02.2003 near Palmolin Oil Garden within the limits of Addanki Police Station. His wife and daughters filed M.V.O.P.No.376 of 2003 claiming compensation and under the order and decree dated 02.09.2006 on the file of Motor Accidents claims Tribunal-cum-IV Additional District Judge (Fast Track Court), Ongole (for short "the learned MACT"), awarded a compensation of Rs.1,39,750/-. Questioning the same as in adequate, the present appeal is filed by the claimants.

2. Respondent No.1 is the owner of the Jeep bearing No.AP 27 U 1889 (hereinafter referred to as "the offending vehicle"). Respondent No.2 is the Insurance Company with which the offending vehicle was insured.

3. For the sake of convenience, the parties will be hereinafter referred to as the petitioners/claimants and the respondents, as and how they are arrayed in the proceedings before the learned MACT.

Case of the claimants:

4(i). 1st petitioner is the wife, the 2nd and 3rd petitioners are the daughters of the deceased. The deceased was a business man having a wine shop at Medarametla in the name and style of Sri Venkateswara Wines and was also

one of the directors of Khajana Chit Funds and a partner of Vijaya Parvathi Constructions and was getting an income of Rs.10,000/- to 12,000/- per month The 2nd petitioner was studying in Vikas Mahila Residential College, Guntur and the 3rd petitioner was studying in Vikas Public School, Guntur.

(ii). On the fateful day i.e. on 24.02.2003, he was proceeding on his motor cycle at about 2:00 p.m. to Medarametla and when he was near Palmolin Oil Garden of Oguri Seshaiah, the offending vehicle belonging to respondent No.1, driven by its driver, came in a rash and negligent manner causing the accident. The deceased was shifted to Sri Venkata Ramana Nursing Home, Ongole but succumbed to injureis during treatment. The petitioners lost valuable financial and emotional support. Hence, they are entitled for compensation.

Case of respondent No.1:

5. The negligence of the deceased is the cause for accident. The deceased was coming on a motor cycle at high speed, some buffaloes on hearing sound of the horn came suddenly came across the road. To avoid the same, the motor cyclist hit the jeep and there was no negligence on the part of the driver of the jeep / offending vehicle. The petitioners allegations are incorrect.

Case of respondent No.2 / Insurance Company:

6. The petitioners shall prove the pleaded accident, negligence, death of deceased due to accident, valid and effective driving licence of the driver of the offending vehicle, age, occupation and income of the deceased. Initially, the case was registered as unknown vehicle and it appears that the vehicle is

planted. The owner and Insurance Company of the motorcycle are also necessary parties. The petition is liable to be dismissed.

Findings of the learned MACT:

7(i). While referring to the crime records and the evidence of P.Ws.2 and 3, eye witness to the accident, the learned MACT found that the negligence of the driver of the jeep/offending vehicle as the cause for the accident. The contention of the Insurance Company as to the contents of Ex.A1-FIR being different is not acceptable. When the contents of Ex.A5-charge sheet are seen in the light of the evidence of P.Ws.2and 3.

(ii). By referring to the age of the deceased as '38' and the evidence of other witnesses and documents Ex.A9 to Ex.A16 fee certificates, Ex.A6-Registrartion of Firm certificate. Ex.A7-partnership deed firm and Ex.A8- Memorandum of Articles of Association etc., the learned MACT disbelieved the income of the deceased at Rs.10,000/- to Rs.12,000/- per month and notionally accepted the income of the deceased at Rs.2,000/- per month and taken the age of the deceased as '39' years by referring to Ex.A2-Inquest Report. The adopted multiplier is 15. 1/4th of the income of the deceased was deducted towards personal expenditure and arrived at Rs.2,70,000/- towards loss of income but attributed contributory negligence to the deceased to the tune of 50% and fixed the entitlement of the petitioners at Rs.1,35,000/- towards loss of dependency and awarded Rs.5,000/- towards loss of consortium, Rs.2,000/- towards funeral

expenditure and Rs.2,500/- towards loss of estate and deducted 50% from the said heads also, finally awarded Rs.1,39,750/- as the compensation payable.

Scope of the appeal:

8. Claimants before the learned MACT filed the appeal. Learned counsel for the respondent Insurance Company would submit that although they have not filed an appeal, they are entitled to contest both liability and quantum.

Arguments:

9(i). Learned counsel for the appellants would submit that the learned MACT seriously erred in observing contributory negligence while quantifying the compensation having held that the accident occurred due to negligence of the driver of the offending vehicle while answering issue No.1. Taking income at Rs.2,000/- per month is not correct and is baseless. When there is ample evidence indicating the age, occupation and income of the deceased, there is no clarity in discussion and answering the issue by the learned MACT.

(ii). The empathetical and practical concern is missing on the part of the learned MACT.

10. In reply, learned counsel for the respondent-Insurance Company would submit that the appeal is fit to be dismissed. The grounds urged for interference are not sufficient.

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

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

1) Whether the claimants are entitled for compensation against the respondents and if so to what tune and whether the compensation of Rs.1,39,750/- awarded by the learned MACT under the impugned order requires any interference and enhancement; if so, on what grounds and to which extent?

2) what is the result of the appeal?

Point No.1:

Negligence:

Statutory Guidance:

13(i). As per Section 176 of the Motor Vehicles Act, the State Governments are entitled to make rules for the purpose of carrying effect to the provisions of the Motor Vehicles Act.

(ii). In relation to claims before the learned MACT, Rule 455 to Rule 476 of the A.P. Motor Vehicles Rules, 1989, vide Chapter No.11 provides comprehensive guidance. As per Rule 476 of the A.P. Motor Vehicles Rules, 1989, the claims Tribunal shall proceed to award the claim basing on the registration certificate of the vehicle, insurance policy, copy of FIR and Post-mortem certificate etc.

Precedential Guidance:

14. 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 findings:

15. Ex.A1-FIR, Ex.A2-Inquest report, Ex.A3-Post Mortem Certificate Ex.A4-Accident Information Report (MVI report), Ex.A5-Charge sheet are sufficient to believe the occurrence of the accident and death of deceased due to accident and also the charge sheet filed against the driver of the offending vehicle.

16. It is relevant to note that there is no evidence from the respondents side. What prevented the respondent-Insurance Company from examining the driver of the offending vehicle is not known. There is no oath against oath.

17. P.Ws.2 and 3 are said to be the eye witnesses to the accident. Their evidence is clear and categorical as to the negligence of the driver of the offending vehicle.

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[1] *2009 (13) SCC 530*

18. P.W.2 stated that the jeep driver did not stop after hitting the deceased, in spite of shouting to stop the jeep/offending vehicle. P.W.2 claims that he was examined by the police.

19. P.W.3 evidence is also on similar lines. There is nothing to discredit the evidence of P.Ws.2 and 3

20. It is not the case of the respondents that the driver of the offending vehicle was acquitted in a criminal case. There is no convincing evidence to show the contributory negligence on the part of the deceased. Therefore, the accident is attributable to the conduct of the driver of the offending vehicle.

Quantum:

Precedential guidance:

21(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.***[2] 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. v. Pranay Sethi and Others***[3] case directed for adding future prospects at 50% in respect of permanent employment where the deceased is below 40 years, 30%

[2] 2009 (6) SCC 121
[3] 2017(16) SCC 680

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. v. Nanu Ram and Others***[4], 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:

22. In ***Rajesh and others vs. Rajbir Singh and others***[5], the Hon'ble Supreme Court in para Nos.10 and 11 made relevant observations, they are as follows:

> ***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,*

[4] (2018) 18 SCC 130
[5] (2013) 9 SCC 54

(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 and findings:

23. The evidence of P.W.4 would show that the every partner was getting Rs.50,000/- per annum as income. P.W.5 also stated on the same lines. P.Ws.4 and 5 are said to be the partners along with the deceased. The Firm Registration certificate and partnership deed are also indicate the involvement of the deceased in some business. The payment of school fee bills etc. Ex.A9

to A16 placed by the claimants would show the financial capacity of the deceased to pay the fees to the children.

24. In the context of the evidence available on record, taking the income at Rs.2,000/- per month is found to be very low and the income of the deceased can be accepted at least Rs.50,000/- per annum as claimed by the claimants. In view of the age of the deceased being below 40 years, addition of 40% towards future prospects is permissible. Whereby, the income of the deceased comes to Rs.70,000/- per annum. 1/3rd of the income of the deceased is fit to be deducted towards personal expenditure. Whereby, the contribution of the income of the deceased to the family comes to around Rs.46,667/-, which can be considered as multiplicand. For the age group of 36-40 years, the multiplier applicable is '15'. Whereby, the loss of dependency to the claimants comes to Rs.7,00,005/- and they are entitled for the same.

25. Further, the claimants are entitled for compensation under the conventional heads i.e. Rs.40,000/- each towards loss of consortium, Rs.15,000/- towards funeral expenditure and Rs.15,000/- towards loss of estate.

26. 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.1,35,000/-	Rs.7,00,005/-
(ii)	Loss of estate	Rs.1,250/- (awarded Rs.2,500/- but reduced to 50%)	Rs.15,000/-
(iii)	Loss of Consortium	Rs.2,500/- (awarded Rs.5,000/- but reduced to 50%)	Rs.1,20,000/- **@ Rs.40,000/- to each claimant**
(iv)	Funeral expenses	Rs.1,000/- (awarded Rs.2,000/- but reduced to 50%)	Rs.15,000/-
	Total compensation awarded	**Rs.1,39,750/-**	**Rs.8,50,005/-**
	Interest (per annum)	7.5%	6%

27. 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.8,50,005/- 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 02.09.2006 passed by the learned MACT in M.V.O.P.No.376 of 2003 require modification accordingly.

Granting of more compensation than what claimed, if the claimants are otherwise entitled:-

28. 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[6],** 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***.[7] 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[8]*** 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*

[6] (2003) 2 SCC 274
[7] *2020 (04) SCC 413*
[8] (2019) 2 SCC 192

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."

Point No.3:

29. In the result**,** the appeal is allowed as follows:

(i) Compensation awarded by the learned MACT in M.V.O.P.No.376 of 2003 at Rs.1,39,750/- with interest at the rate of 7.5% per annum is modified and enhanced to Rs.8,50,005/- with interest at the rate of 6% per annum from the date of petition till the date of realization.

(ii) Claimants are liable to pay the Court fee for the enhanced part of the compensation, before the learned MACT.

(iii) **Apportionment:**

(a) Claimant No.1 / wife of the deceased is entitled to Rs.4,50,005/- with proportionate interest and costs.

(b) Claimant Nos.2 and 3 / daughters of the deceased are entitled to Rs.2,00,000/- each with proportionate interest.

(iv) Respondent Nos.1 and 2 before the learned MACT are jointly and severally liable to pay the compensation. However, respondent No.2 / Insurance Company is liable in view of the insurance policy.

(v) Time for payment /deposit of balance amount is two months.

(a) If the claimants 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 v(a) above, the respondent No.2 / Insurance Company 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.

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

A. HARI HARANADHA SARMA, J

Date:21.07.2026
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Whether the order is:

Speaking		Reasoned	✓
Reportable		Non-reportable	✓

HON'BLE SRI JUSTICE A. HARI HARANADHA SARMA

M.A.C.M.A No.1243 of 2012

21st July, 2026

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