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APHC010696782012



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

[3520]

TUESDAY, THE FIFTH DAY OF MAY
TWO THOUSAND AND TWENTY SIX

PRESENT**THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA****MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 3117/2012****Between:**

1. RELIANCE GENERAL INSURANCE CO. LTD., HYDERABAD, REPT. BY
ITS MANAGER, SAGAR OFFICE PLAZA, 4TH FLOOR, D.NO. 327 TO
339, ABIDS, HYDERABAD -01

...APPELLANT**AND**

1. SMT PASUPULETI SARADA KADAPA DISTRICT AND 4 OTHERS, W/O.
LATE VENKATA RAMANA HOUSEWIFE (OF DECEASED) R/O. D.NO.
5/42-1, MUTTARASUPALLI VILLAGE, KADAPA CITY, KADAPA
DISTRICT.

2. PASUPULETI SUPRAJA, D/O. LATE VENKATA RAMANA DAUGHTER
(OF DECEASED) R/O. D.NO. 5/42-1, MUTTARASUPALLI VILLAGE,
KADAPA CITY, KADAPA DISTRICT.

3. PASUPULETI VENKATA SUBHASHINI, D/O. LATE P.VENKATA
RAMANA HOUSE, (DAUGHTER OF DECEASED) R/O. D.NO. 5/42-1,
MUTTARASUPALLI VILLAGE, KADAPA CITY, KADAPA DISTRICT.

4. PASUPULETI PRASANTHI, D/O. LATE P.VENKATA RAMANA

UNMARRIED (DAUGHTER OF DECEASED) R/O. D.NO. 5/42-1,
MUTTARASUPALLI VILLAGE, KADAPA CITY, KADAPA DISTRICT.

5.M PRASAD, S/O. N.PENCHALAIHAH, AGE NOT KNOWN, BUT MAJOR
OWNER OF AUTO BERAING REG.NO. AP-04-W-0435, R/AT. 7-1198,
MRUTHUNJAY KUNTA, KADAPA CITY, KADAPA DISTRICT.

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Court

IA NO: 1 OF 2012(MACMAMP 542 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 to condone the delay of 20 days in filing the above appeal.

IA NO: 5 OF 2012(MACMAMP 4003 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

IA NO: 6 OF 2012(MACMAMP 6779 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 to Stay the execution of the Decree the Judgment dated 11.07.2011 passed in MVOP No. 750/2008 on the file of Chairperson, Motor Accidents Claims Tribunal-cum-Prl. District Judge, Kadapa, pending disposal of the appeal.

IA NO: 1 OF 2015(MACMAMP 923 OF 2015)

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 direct the Court below i.e., Motor Accidents Claims Tribunal-Cum-Principal District Judge's Court, Kadapa to permit the petitioners herein to withdraw the remaining the amount lying to the credit of MVOP No. 750 of 2008, on the file of the Motor Accidents Claims Tribunal-Cum-Principal District Judge's Court, Kadapa as per the order of this Hon'ble Court dt. 15-10-2012 in MACMA MP No. 6779 of 2012 in MACMA No. 3117 of 2012 in the interest of Justice.

IA NO: 2 OF 2015(MACMAMP 924 OF 2015)

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 expedite the hearing of MACMA No. 3117 of 2012 in the interest of Justice.

Counsel for the Appellant:

1.D RAVI KIRAN

Counsel for the Respondent(S):

1.V B SUBRAHMANYAM

2.A.SREE RAM

The Court made the following:

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA**M.A.C.M.A.No.3117 of 2012****JUDGMENT:****Introductory:**

1. Respondent No.2 / Insurance Company in M.V.O.P.No.750 of 2008 on the file of the Chairman, Motor Accident Claims Tribunal-cum-Principal District Judge-Kadapa-cum-1st Additional District Judge, Kadapa (FAC) (for short “the learned MACT”), filed the present appeal, questioning the liability and quantum of compensation awarded in favour of the claimants therein under order and decree dated 08.07.2011.

2. Respondent Nos.1 to 4 herein are the claimants and respondent No.5 herein is the respondent No.1 before the learned MACT and is the owner of the Auto bearing Registration No. AP 04 W 0435 (hereinafter referred to as “the offending vehicle”).

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

Case of the claimants:

4(i). One P. Venkata Ramana (hereinafter referred to as “the deceased”) along with one P. Sreeramulu, was proceeding on a TVS-50 bearing No.AAD 7315 on 07.09.2007 at about 09:00 p.m. near Suzuki showroom, on Kadapa-Rajampet

main road, Kadapa City, within the limits of Chinna Chock Police Station. At that time, the offending vehicle, driven in a rash and negligent manner, came in the opposite direction and dashed the TVS moped on which the deceased was travelling, causing grievous injuries all over the body. He was shifted to RIMS Hospital, Kadapa and from there to C.M.C. Vellore, but, on 11.09.2007, the deceased succumbed to the Injuries.

(ii). The deceased was hale and healthy, he was aged about 50 years and was working as a Drilling Supervisor in Groundwater Department and contributing his entire income to the family. The claimants, being the family members and dependents, lost every hope of life due to his sudden demise on account of the accident. Hence, they are entitled for just and reasonable compensation.

Case of the respondents

5. Respondent No.1 remained *ex parte* before the learned MACT.

Case of respondent No.2 / Insurance Company:

6. The petitioners shall prove the pleaded accident, negligence of the driver of the offending vehicle, age, occupation, income of the deceased and dependency of the claimants as well as absence of negligence on the part of the rider of the moped. Further, it is also claimed by the Insurance Company that the driver of the offending vehicle did not possess valid and effective driving licence.

Findings of the learned MACT:

7(i). The learned MACT, by relying on the evidence of the claimant No.1 (P.W.1), the crime record as well as the evidence of P.W.2, the eye-witness to the accident, found that the negligence of the auto/ offending vehicle is the cause for the accident. The driver of the auto is the cause for the accident. The denial of coverage of policy issued by respondent No.2 for the offending vehicle is not acceptable. In view of the evidence placed by the claimants with policy numbers etc. coverage of the case is established. Therefore, the claimants are entitled for compensation.

(ii). The income of the deceased is Rs.22,879/- per month as per Ex.A5-Salary Certificate, which is the gross salary and the net salary is Rs.16,819/- per month. The deceased was aged about 51 years by the date of accident. There need not be any addition to the income as the person is beyond 50 years. Therefore, the income can be taken at Rs.22,879/- per month. Upon deduction of the income towards personal expenditure, etc., the entitlement of the claimants for compensation under the head of loss of dependency comes to Rs.20,13,352/-. They are also entitled for Rs.5,000/- towards funeral expenditure and Rs.10,000/- towards loss of consortium to the first petitioner. For want of evidence, no compensation will be awarded for medical expenditure.

(iii). The learned MACT found that, in all the claimants are entitled for Rs.20,28,352/-.

Arguments in the appeal:**For the appellant / Insurance Company:**

- 8(i). The driver of the offending vehicle did not possess valid and effective driving licence.
- (ii). Adopting gross salary is not correct.
- (iii). Compensation awarded is excessive.

For the claimants:

- 9. The liability is properly imposed on both respondents and the quantification is also rational. However, the claimants are entitled for more compensation and the learned MACT failed to award compensation under all heads in tune with the directives of the Hon'ble Supreme Court.
- 10. Perused the record. Thoughtful consideration is given to the arguments advanced by both sides.
- 11. The points that arise for determination in this appeal are:
 - 1) Whether the liability imposed on respondent No.2 (appellant) and the quantification of compensation done by the learned MACT under the impugned orders dated 08.07.2011 are sustainable in law and on facts or require any interference, if so, on what grounds and to which extent?
 - 2) What is the result of the appeal?

Point No.1:**Liability:**

12(i). The appellant Insurance Company is disputing the liability on the ground of want of driving licence to the driver of the offending vehicle. Except the oral evidence of R.W.1, there is no material placed by respondent No.1. In one breath, respondent No.1, disputed the liability on the ground of want of policy itself. However, the learned MACT, with reference to the policy copy, found that the coverage of insurance is shown by the claimants.

(ii). The evidence of R.W.1 requires analysis to answer the contention of the appellant Insurance Company. Except simply asserting that the policy referred to was not issued by respondent No.2, nothing more is stated by the R.W.1.

(iii). During cross-examination done on P.W.1, it was suggested on behalf of the Insurance Company that the offending vehicle did not involve in the accident and that the vehicle was entrusted to an unlicensed driver. But, absence of policy with policy number etc. is not even suggested to P.W.1.

(iv). Further, it is relevant to note that no evidence is adduced as to the absence of a driving licence, which is the prime objection of the Insurance Company.

(v). Upon considering the material available on record, the liability imposed on the appellant Insurance Company is found acceptable and no merits are found in that regard.

Quantum:

13(i). Learned counsel for appellant further argued that the tax payable by the deceased should have been deducted while taking the income into consideration.

Rs.22,879/- per month will come to Rs.2,74,548/- per annum.

(ii). Whether the income of Rs.2,74,548/- per annum falls under the taxable limit during the year 2010 and whether the net income or gross income shall be taken is the point that arises in the context of argument. It is found relevant to note the observations of Hon'ble Supreme Court in ***Shyamwati Sharma and others vs. Karam Singh and others***¹, vide para 9, which reads as follows:

9. In this case as the annual income has been worked out as Rs. 2,48,292, appropriate deduction has to be made towards income tax. The rate of income tax is a varying figure, with reference to taxable income after permissible deductions and the year of assessment. The High Court has assessed the deduction as 30% and on the facts, we do not propose to disturb it. We however make it clear that while ascertaining the income of the deceased, any deductions shown in the salary certificate as deductions towards GPF, life insurance premium, repayments of loans, etc. should not be excluded from the income. The deduction towards income tax/surcharge alone should be considered to arrive at the net income of the deceased.

As per the observations of the Hon'ble Apex Court in ***Shyamwati Sharma and others vs. Karam Singh and others (1 supra)***, while taking the income of the deceased, any deductions shown in the salary certificate as deductions

¹ (2010) 12 SCC 378

towards GPF, life insurance premium, repayment of loans etc. should not be excluded from the income.

(iii). Now, in the present case, the Salary Certificate-Ex.A5 indicating the gross salary at Rs.22,879/-, which is inclusive of the GPF, APGLI, etc., which need not be deducted in terms of observations of the Hon'ble Apex Court in the case cited i.e. ***Shyamwati Sharma and others vs. Karam Singh and others*** (1 supra).

Therefore, the acceptance of the income by the learned MACT need not be found fault with. However, what is the taxable income and what shall be the standard deductions during the year, 2010 are all matters not brought on record. During the financial year 2009-2010, up to Rs.1,60,000/- income, no tax is payable. From Rs.1,60,001/- to Rs.3,00,000/- income tax chargeable is at 10%. Even otherwise, in terms of the observations of the Hon'ble Apex Court in ***National Insurance Company Ltd. vs. Pranay Sethi and Others***², 10% addition can be there in respect of persons aged above 50 years towards future prospects. After excluding the standard deduction, the taxable income and the percentage of tax on such taxable income at the first level is around 10%. Since future prospects to the tune of 10% are not added, the absence of deduction of around 10% towards income tax may not cause prejudice to the appellant Insurance Company. Therefore, there can be no grievance to the appellant.

² 2017(16) SCC 680

Therefore, the quantum of compensation arrived at under the head of loss of dependency need not be found fault with.

(iv). Further, the claimants are entitled for compensation under the conventional heads i.e. Rs.15,000/- towards funeral expenses, Rs.15,000/- towards loss of estate and Rs.40,000/- each to claimant Nos.1 to 4 towards loss of consortium viz. claimant No.1-spousal consortium and claimant Nos.2 to 4-parental consortium.

(v). Even in the absence of an appeal, the same is fit to be allowed and just compensation can be awarded, which is the settled proposition of law as per the observations of the Hon'ble Supreme Court in ***Surekha and Others vs. Santosh and Others***³ and the Division Bench of this Court in ***National Insurance Company Limited vs. E. Suseelamma and others***⁴.

(vi). 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.20,13,352/-	Rs.20,13,352/-
(ii)	Loss of estate	-Nil-	Rs.15,000/-
(iii)	Loss of Consortium	Rs.10,000/- @ towards claimant No.1	Rs.1,60,000/- @ Rs.40,000/- each to claimant Nos.1 to 4

³ (2021) 16 SCC 467

⁴ 2023 SCC Online AP 1725

(iv)	Funeral expenses	Rs.5,000/-	Rs.15,000/-
	Total compensation awarded	Rs.20,28,352/-	Rs.22,03,352/-
	Interest (per annum)	6%	6%

14. In view of the discussion made above, point framed is answered concluding that the liability imposed on both respondents in appellant is justified is proper and no interference is necessary. However, quantum of compensation awarded require modification and the claimants are entitled for compensation of Rs.22,03,352/- with interest at the rate of 6% per annum from the date of petition till the date of realization. The order and decree dated 08.07.2011 passed by the learned MACT in M.V.O.P.No.750 of 2008 require modification accordingly.

Point No.2:

15. In the result,

- (i) The appeal is dismissed.
- (ii) However, the compensation awarded by the learned MACT in M.V.O.P.No.750 of 2008 at Rs.20,28,352/- with interest at the rate of 6% per annum is modified and enhanced to Rs.22,03,352/- with interest at the rate of 6% per annum from the date of petition till the date of realization.
- (iii) **Apportionment:**
 - (a) Claimant No.1 / wife of the deceased is entitled for Rs.10,03,352/- with proportionate interest and costs.

(b) Claimant Nos.2 to 4 / children of the deceased are entitled for Rs.4,00,000/- each with proportionate interest.

(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 furnish the bank account number within 15 days from today, respondent No.2 / Insurance Company 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.

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

A. HARI HARANADHA SARMA, J

Date:05.05.2026
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HON'BLE SRI JUSTICE A. HARI HARANADHA SARMA

M.A.C.M.A.No.3117 of 2012

05.05.2026

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