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APHC010242702014



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

[3520]

THURSDAY, THE TWENTY SECOND DAY OF JANUARY
 TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 4049/2014

Between:

- 1.J. RAJESWARI, W/O. MUNI RAMAIAH R/O. GEORGE STREET,
 D.NO.40/30/8, NELLORE TOWN NELLORE DISTRICT.
- 2.J. MALLESWARI, D/O. MUNI RAMAIAH R/O. GEORGE STREET,
 D.NO.40/30/8, NELLORE TOWN NELLORE DISTRICT.
- 3.J. PADMAVATHI, D/O. MUNI RAMAIAH R/O. GEORGE STREET,
 D.NO.40/30/8, NELLORE TOWN NELLORE DISTRICT.
- 4.J. HYMAVATHI, D/O. MUNI RAMAIAH R/O. GEORGE STREET,
 D.NO.40/30/8, NELLORE TOWN NELLORE DISTRICT.
- 5.J. PUSHPAVATHI, D/O. MUNI RAMAIAH R/O. GEORGE STREET,
 D.NO.40/30/8, NELLORE TOWN NELLORE DISTRICT.
- 6.J. LAKSHMAMMA, W/O.VEERAIAH R/O. GEORGE STREET,
 D.NO.40/30/8, NELLORE TOWN NELLORE DISTRICT.

...APPELLANT(S)

AND

- 1.R GURUVAMMAL, W/O.PANDIAN OWNER OF LORRY R/O.134/A/1,
 SIDCO COLONY, PARAMATHI ROAD, NAMAKKAL, CHENNAI,

TAMILNADU.

2. UNITED INDIA INSURANCE COMPANY LIMITED, REP., BY ITS
BRANCH MANAGER, TUTICORIN, CHENNAI, TAMILNADU

...RESPONDENT(S):

Appeal filed under Order 41 of CPC praying that the Highcourt may be pleased to

IA NO: 1 OF 2006(MACMAMP 5867 OF 2006)

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 39 days in preferring the appeal against the Judgment and decree made in O.P.No.934 of 2003 dt.3.4.2006 on the file of the Principal MACT-cum-Prl.District Judge, Nellore.

IA NO: 4 OF 2006(MACMAMP 44487 OF 2006)

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 2014(MACMAMP 5907 OF 2014)

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 discharge the 1st petitioner herein as guardian of petitioners 4 and 5 herein and declare the petitioners 4 and 5 as majors in the above appeal

IA NO: 1 OF 2016(MACMAMP 3093 OF 2016)

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 permit the petitioner to publish the paper publication in Chennai Local Papers in the above MACMA No.4049/2014

IA NO: 2 OF 2016(MACMAMP 3776 OF 2016)

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 modify the orders passed in MACMAMP No.3093/2016 in MACMA No.4049/2014 dated

25.07.2016 instead of local edition of Indian Express, Chennai, in local edition 'Namakkal, Tamil Nadu State'

IA NO: 3 OF 2016(MACMAMP 4016 OF 2016)

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 us as majors for contesting the above said MACMA No.4049/2014

IA NO: 2 OF 2017(MACMAMP 31207 OF 2017)

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 review the judgement dated 27-07-2017 passed in MACMA No 4049 of 2014 in the interest of justice

IA NO: 4 OF 2017(MACMAMP 45805 OF 2017)

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 95 days in representing the above Review MACMAMPSR No 31207 of 2017 in MACMA No 4039 of 2014 in the interest of justice

IA NO: 5 OF 2017(MACMAMP 45806 OF 2017)

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 permit the petitioners to amend the claim in OP No 934 of 2003 on the file of Principal Motor Accidents Claims Tribunal at Nellore from the claim of Rs 15-00 lakhs to Rs 2653560/- and consequently the petitioners may be permitted to carry out the amendment under Rule 28 of Civil Rules of Practice in the interest of justice

IA NO: 6 OF 2017(MACMAMP 45810 OF 2017)

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 receive the following documents i e 1 Salary Certificate and other particulars of deceased J Muniramaiah and 2 Appointment order of the deceased vide proceedings No IDC / EE / GNT/ EE-11/ Vol II 2819 dated 16-01-1978 as additional evidence and may be pleased to mark the same as proposed Exhibits

Ex A7 and Ex A8 on behalf of the appellants / Petitioners in the above appeal in the interest of justice

Counsel for the Appellant(S):

1. T C KRISHNAN

Counsel for the Respondent(S):

1. SRINIVASA RAO VUTLA

2..

The Court made the following:

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA
I.A.No.2 of 2017 & I.A.Nos.5 and 6 of 2017 in I.A.No.2 of 2017
in
M.A.C.M.A.No.4049 of 2014

COMMON ORDER:

Introductory:

1. Claimants in O.P.No.934 of 2003 filed appeal in M.A.C.M.A.No.4049 of 2014 questioning the adequacy of the compensation awarded by the Motor Accident Claims Tribunal-cum-Principal District Judge, Nellore (for short "the learned MACT") under the Judgment dated 03.04.2006.
2. Claim made for Rs.15,00,000/- was partly allowed by the learned MACT and awarding a compensation of Rs.2,10,000/- in all with interest at 7.5% per annum.
3. Claimants are wife, daughters and mother of one Jadapalli Muni Ramayya (for short "the deceased") who was working as the driver working in Irrigation Department.
4. After considering the rival contentions discarding Ex.A6 Salary Certificate relied for want of examining its author, the learned MACT adopted notional income at Rs.1,500/- per month and after deduction taken Rs.1,000/- per month as contribution and accepted Rs.12,000/- as multiplicand and applied the multiplier '15'. Awarded a compensation of Rs.1,80,000/- towards loss of

dependency, Rs.15,000/- towards non-pecuniary damages and Rs.15,000/- towards loss of consortium. In all, the claimants are entitled for Rs.2,10,000/-.

5. In the appeal, this Court under the Judgment dated 27.07.2017, observed that the notional income of Rs.1,500/- per month was taken by the learned MACT and that the same require no interference. However, the compensation amount was enhanced from Rs.2,10,000/- to Rs.2,30,200/-.

Scope of present appeal and applications:

6(i). I.A.No.2 of 2017 is filed by the claimants with a prayer for review of the judgment made in M.A.C.M.A.No.4049 of 2014 by this Court under orders dated 27.07.2017

(ii). I.A.No.5 of 2017 in I.A.No.2 of 2017 is filed by the claimants with a prayer for permitting the claimants to enhance the claim made from Rs.15,00,000/- to Rs.26,53,560/- in terms of Order 6 Rule 17 r/w. 151 of CPC and Rule 28 of Civil Rules of Practice.

(iii). I.A.No.6 of 2017 in I.A.No.2 of 2017 is filed by the claimants with a prayer for considering the additional evidence in respect of pay particulars etc. of the deceased.

Grounds and Arguments, Analysis and Findings:

7. I.A.No.2 of 2017 is filed on the grounds:

(i) As per Ex.A6 Salary certificate, the deceased was a Government Jeep driver and his employment is not denied. Age of deceased was '45' years. He

was hale and healthy, earning Rs.12,617/- as gross salary and Rs.10,569/- as net salary. Eight years, six months and 23 days of service were remaining as on the date of accident. For the age group of 40-50 years, 30% future prospects are to be added as per the observations of the Supreme Court.

(ii). There is no bar for awarding more compensation than what is claimed, as per the settled law.

(iii). There is an error apparent on the face of record in not properly calculating the income.

(iv). If the income is properly taken and calculation is properly made, the entitlement of claimants for compensation is as follows:

Sl.No.	Heads	Calculation
1.	Salary	Rs.12,670/- P.M.
2.	30% has been added as future prospects	Rs.12,670/-+Rs.4,223/- =Rs.16,893/-
3.	1/4 th has to be deducted for personal expenses of the deceased	Rs.16,893/-–Rs.4,223/- =Rs.12,670/-
4.	Compensation after multiplier of 14 is applied	Rs.12,670x12x14=Rs.21,28,560/-
5.	Loss of consortium	Rs.1,00,000/-
6.	Loss of care and guidance of minor children each Rs.1,00,00/-	Rs.4,00,000/-
7.	Loss of love and affection of the aged parents	Rs.1,00,000/-

8.	Funeral expenses	Rs.25,000/-
9.	Total compensation	Rs.26,53,560/-

(v). Settled law was not properly considered by this Court. Therefore, the judgment dated 17.07.2017 in M.A.C.M.A.No.4049 of 2014 by this Court requires review.

8(i). Arguments are submitted in the same lines, whereas Sri Srinivasa Rao Vutla, learned counsel for the respondents, would submit that there are no grounds to interfere for exercising the power of review.

(ii). The jurisdiction of review is very limited and exercising such review in the present case would amount to sitting in appeal over its own judgment by the same Court and the review shall not be a rehearing of the appeal over again on merits.

9. The points that arise for consideration in this application / petition are:

- 1) Whether there are sufficient grounds to consider the additional evidence in respect of pay particulars of the deceased as prayed in I.A.No.6 of 2017 in I.A.No.2 of 2017?
- 2) Whether there are sufficient grounds to permitting the claimants to enhance the claim from Rs.15,00,000/- to Rs.26,53,560/- as prayed in I.A.No.5 of 2017 in I.A.No.2 of 2017?
- 3) Whether there are sufficient grounds to review the judgment of this Court dated 27.07.2017 as prayed in I.A.No.2 of 2017?

Point No.1:

10. I.A.No.6 of 2017 it falls within the framework of Order 41, Rule 27, appreciating additional evidence when the appeal is pending is possible. But, after the dismissal of the matter, when an application is filed for review of the judgment, linking it to additional evidence now placed is not possible as the same amounts to putting the cart in front of the horse. Hence, impermissible.

11. Therefore, the application for receiving additional evidence is fit to be dismissed. Accordingly, the I.A.No.6 of 2017 in I.A.No.2 of 2017 is dismissed.

Point No.2:

12. The permissibility of enhancement of claim is possible when the matter is pending. After the disposal of the matter and that too when a review application is filed, entertaining an application for enhancement amounts to putting the other side to surprise. Even otherwise, the settled law is that in a claim for compensation by a victim of motor accident, if the claimants are otherwise entitled, more compensation than claimed can be awarded. Hence, the prayer is redundant and unnecessary.

13. The submission made on behalf of the claimant / victim that they are ready to pay Court fee in the event of enhancement is recorded. The petition found not fit for consideration at this belated stage on application of the test of diligence. Therefore, the point framed against the petitioners accordingly. Consequently,

I.A.No.5 of 2017 in I.A.No.2 of 2017 is fit to be dismissed. Accordingly, I.A.No.5 of 2017 in I.A.No.2 of 2017 is dismissed.

Point No.3:

Legal Position:

Statutory Guidance:

14(i). Section 114 of the Code of Civil Procedure, 1908 reads as follows:

114. Review.—Subject as aforesaid, any person considering himself aggrieved—

- (a) by a decree or order from which an appeal is allowed by this Code, but from which no appeal has been preferred.***
- (b) by a decree or order from which no appeal is allowed by this Code, or***
- (c) by a decision on a reference from a Court of Small Causes, may apply for a review of judgment to the Court which passed the decree or made the order, and the Court may make such order thereon as it thinks fit.***

(ii). Order 47 Rule 1 of the Code of Civil Procedure, 1908 reads as follows:

1. Application for review of judgment.—

(1) Any person considering himself aggrieved—

- (a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,***
- (b) by a decree or order from which no appeal is allowed, or***
- (c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of the decree***

passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.

(2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applied for the review.

Precedential Guidance:

15(i). Learned counsel for the petitioners relied on observations of the Hon'ble Apex Court in a case between ***United India Insurance Co. Ltd vs. Rajendra Singh and others***¹, wherein it is observed that the Tribunal / High court will have power of review where fraud deducted and award can be recalled. The observations in para Nos.11 and12 are as follows:

11. Thus the Tribunal refused to open the door to the appellant Company as the High Court declined to exercise its writ jurisdiction which is almost plenary for which no statutory constrictions could possibly be imposed. If a party complaining of fraud having been practised on him as well as on the court by another party resulting in a decree, cannot avail himself of the remedy of review or even the writ jurisdiction of the High Court, what else is the alternative remedy for him? Is he to surrender to the product of the fraud and thereby became a conduit to enrich the impostor unjustly? Learned Single Judge who indicated some other alternative remedy did not unfortunately spell out what is the other remedy which the appellant Insurance Company could pursue.

12. No one can possibly fault the Insurance Company for persistently pursuing the matter up to this Court because they are dealing with public

¹ (2000) 3 SCC 581

money. If they have discovered that such public fund, in a whopping measure, would be knocked off fraudulently through a fake claim, there is full justification for the Insurance Company in approaching the Tribunal itself first. At any rate the High Court ought not to have refused to consider their grievances. What is the legal remedy when a party to a judgment or order of court later discovered that it was obtained by fraud?

This ratio is not applicable, as there is no allegation of fraud in the present case.

(ii). In a case between **Ram Deo Chauhan vs. State of Assam**² vide para 28, Hon'ble Apex Court considered the scope of review. However, in this same paragraph reference was made to Order 47 Rule 1 CPC and also Order 40 Rule 1 of the Supreme Court Rules, wherein it is observed that the Court may also reopen its judgment if a manifest wrong has been done and it is necessary to pass an order to do full and effective justice. The power of review open under Order 47 Rule 1 in the following circumstances:

5. This Court considered the scope of review and the limitations imposed on its exercise under Article 137 of the Constitution of India in Lily Thomas v. Union of India [(2000) 6 SCC 224 : 2000 SCC (Cri) 1056 : JT (2000) 5 SC 617] and held: (SCC pp. 247-51, paras 52-56)

“52. The dictionary meaning of the word ‘review’ is ‘the act of looking, offer something again with a view to correction or improvement’. It cannot be denied that the review is the creation of a statute. This Court in Patel Narshi Thakershi v. Pradyumansinghji Arjunsinghji [(1971) 3 SCC 844 :

² (2001) 5 SCC 714

*AIR 1970 SC 1273] held that the power of review is not an inherent power. It must be conferred by law either specifically or by necessary implication. The review is also not an appeal in disguise. It cannot be denied that justice is a virtue which transcends all barriers and the rules or procedures or technicalities of law cannot stand in the way of administration of justice. Law has to bend before justice. If the court finds that the error pointed out in the review petition was under a mistake and the earlier judgment would not have been passed but for erroneous assumption which in fact did not exist and its perpetration shall result in a miscarriage of justice nothing would preclude the court from rectifying the error. This Court in *S. Nagaraj v. State of Karnataka* [1993 Supp (4) SCC 595 : 1994 SCC (L&S) 320 : (1994) 26 ATC 448] held: (SCC pp. 619-20, para 19)*

*'19. Review literally and even judicially means re-examination or reconsideration. Basic philosophy inherent in it is the universal acceptance of human fallibility. Yet in the realm of law the courts and even the statutes lean strongly in favour of finality of decision legally and properly made. Exceptions both statutorily and judicially have been carved out to correct accidental mistakes or miscarriage of justice. Even when there was no statutory provision and no rules were framed by the highest court indicating the circumstances in which it could rectify its order the courts culled out such power to avoid abuse of process or miscarriage of justice. In *Raja Prithwi Chand Lal Choudhury v. Sukhraj Rai* [AIR 1941 FC 1] the Court observed that even though no rules had been framed permitting the highest Court to review its order yet it was available on the limited and narrow ground developed by the Privy Council and the House of Lords. The Court approved the principle laid down by the Privy Council in *Rajender Narain Rae v. Bijai Govind Singh* [(1836) 1 Moo*

PC 117 : 2 MIA 181] that an order made by the Court was final and could not be altered:

This was a case where the Supreme Court in accordance with its rules, while exercising the jurisdiction found possibility of review.

(iii). In ***Devender Pal Singh and Ors. Vs. State, N.C.T. of Delhi and Ors.***³, the Hon'ble Apex Court considered the scope of review. This is also a judgment where Articles 137 and 145 of the Constitution of India and Supreme Court Rules are referred.

This Court finds it proper to rely on the following authorities:

16(i). In ***Board of Control for Cricket in India and Another vs. Netaji Cricket Club and Others***⁴, the Hon'ble Apex Court considered the scope of Section 114 of CPC and Order 47 Rule 1 of CPC scope of review particularly mistake on the part of the Court. More particularly, the doctrine '*actus curiae neminem gravabit*'. The relevant observations are made in Para Nos.89 and 90 which are as follows:

89. *Order 47 Rule 1 of the Code provides for filing an application for review. Such an application for review would be maintainable not only upon discovery of a new and important piece of evidence or when there exists an error apparent on the face of the record but also if the same is necessitated on account of some mistake or for any other sufficient reason.*

90. *Thus, a mistake on the part of the court which would include a mistake in the nature of the undertaking may also call for a review of the order. An*

³ (2003) 2 SCC 501

⁴ (2005) 4 SCC 741

application for review would also be maintainable if there exists sufficient reason therefor. What would constitute sufficient reason would depend on the facts and circumstances of the case. The words “sufficient reason” in Order 47 Rule 1 of the Code are wide enough to include a misconception of fact or law by a court or even an advocate. An application for review may be necessitated by way of invoking the doctrine “actus curiae neminem gravabit”.

(ii). In ***Oriental Insurance Company Limited vs. Kalawati Devi and others***⁵, the Hon'ble Apex Court while consider Order 47 Rule 1 and scope of review observed that where the High Court has overlooked certain material, it was a fit case for review. In the said case, where an application filed under Section 170 of Motor Vehicles Act was already allowed. But, the same was overlooked observing that no leave was obtained to contest the case. The Hon'ble Apex Court observed in para No.6 is as follows:

6. *Undisputedly the leave to contest the claim was granted to the insurer on 25.04.2001. Those aspects appear to have been overlooked by the High Court when the original order dated 14.11.2003 was passed. That being so, we set aside the impugned order dated 14.11.2003 in MA No.184 of 2002 and the order dated 05.07.2006 in Civil Review No.37 of 2004 stands quashed. Since the matter is pending since long we request the High Court to dispose of the matter as early as practicable, preferably within two months from the date of receipt of this order.*

From the authorities referred to above, a lead can be had that where there is manifest error on the face of the record, particularly misapplication or overlooking of important material available on record is done, the review of judgment can be done by the very same Court.

17. In the facts and circumstances of the case, whether there is any error apparent on the face of the record requires examination.

18. Claimant No.1, as P.W.1 clearly and categorically deposed that the deceased was working as a driver in P.W.D. Engineering Department, APSIDC Sub-Division, Nellore and was earning Rs.10,569/- per month at the time of his death.

19. Ex.A6-Salary Certificate was marked and the same is not disputed. She, being the wife of the deceased, is competent to speak about the earnings of her husband as well as her employment.

20. During cross-examination, she denied the suggestion that he was not employed. There was no further cross-examination as to from when from he was working, in which office he was working and what his earnings were and nothing was elicited. There is no oath against oath.

21. It is relevant to note that in the inquest report, the deceased is referred to as working as a driver for the past 20 years in APSIDC and that on 06.11.2003, he went to the office and while returning on office work, the accident occurred. This aspect is mentioned in the official records, which were entered in due

discharge of official functions and plays a prominent role. The said important material is overlooked by the learned MACT as well as this Court, while disposing of the matter. If the test contemplated under the authority ***Oriental Insurance Company Limited vs. Kalawati Devi and others*** (5 supra) case is applied, the permissibility of review is found in favour of the claimants.

22. There are four daughters, a wife and a mother. All are women, dependent on the deceased and they lost the sole breadwinner of their family. The accident, negligence and death of deceased due to accident are not in dispute. Compliance with the policy conditions is also not in dispute. Empathetic concern in dealing with the evidence by the Tribunal and this Court is found missing in this case. Failure to consider the material on record or overlooking important evidence is a clear error in this case. Either remand or permitting additional evidence will contribute for further delay in a matter which is more than two decades old. Therefore, review with the material available on record is found permissible and necessary in this case.

Review:

Precedential guidance:

23(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.⁶ 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**⁷ case directed for adding future prospects at 50% in respect of permanent employment where the deceased is below 40 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. v. Nanu Ram and Others**⁸, 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.

⁶ 2009 (6) SCC 121

⁷ 2017(16) SCC 680

⁸ (2018) 18 SCC 130

Just Compensation:

24. In ***Rajesh and others vs. Rajbir Singh and others***⁹, 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, (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.

25. Upon considering the peculiar and facts and circumstances of this case, I am of the humble view that there are sufficient grounds to review the case on hand. After deductions, Net Pay is show at Rs.6,335/- in Ex.A6. Therefore, the net income of the deceased at Rs.6,335/- per month as per Ex.A6 is fit to be accepted with a 30% addition. Then the income of deceased comes to around Rs.8,236/- per month and Rs.98,832/- per annum. 1/3rd of the same is fit to be

⁹ (2013) 9 SCC 54

deducted towards personal expenditure. Then the contribution of the deceased to the petitioners / claimants comes to Rs.65,888/- per annum, which can be considered as the multiplicand. For the age group of 41-45 years, the applicable multiplier is '14' as per the *Sarla Verma* case. When the same is applied, the entitlement of the claimants for compensation under the head of loss of dependency comes to Rs.9,22,432/-(Rs.65,888/- x 14).

26. Further, the claimants are entitled for compensation under the conventional heads i.e. Rs.40,000/- each to Claimant Nos.1 to 5 towards loss of consortium, Rs.15,000/- towards funeral expenditure and Rs.15,000/- towards loss of estate. In view of the death of claimant No.6 / mother of the deceased, the wife and children of the deceased are alone entitled for apportionment of compensation.

27. In view of the reasons and evidence referred above, the entitlement of the claimants for reasonable compensation is found as follows:

Head		Fixed by this Court
(i)	Loss of dependency	Rs.9,22,432/-
(ii)	Loss of estate	Rs.15,000/-
(iii)	Loss of Consortium	Rs.2,00,000/- @ Rs.40,000/- to claimant Nos.1 to 5
(iv)	Funeral expenses	Rs.15,000/-
	Total compensation awarded	Rs.11,52,432/-
	Interest (per annum)	6% In view of the long lapse of time

28. For the reasons aforesaid and in view of the discussion made above, the claimants are entitled for compensation of Rs.11,52,432/- with interest at the rate of 6% per annum from the date of petition till the date of realization and the order dated 27.07.2014 passed by this Court in M.A.C.M.A.No.4049 of 2014 require modification and point No.3 is answered accordingly.

29. In the result,

- (i) I.A.No.6 of 2017 in I.A.No.2 of 2017 filed by the claimants is dismissed.
- (ii). I.A.No.5 of 2017 in I.A.No.2 of 2017 filed by the claimants is dismissed.
- (iii) The review application in I.A.No.2 of 2017 filed by the claimants is allowed and the judgment in M.A.C.M.A.No.4049 of 2014 is reviewed and modified as follows:
 - (i) Compensation awarded by this Court in M.A.C.M.A.No.4049 of 2014 at Rs.2,30,200/- with interest at the rate of 7.5% per annum is modified and enhanced to Rs.11,52,432/- 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.5,52,432/- with proportionate interest and costs.

(b) Rs.1,50,000/- each is apportioned to the share of claimant Nos.2 and 5 / daughters of the deceased with proportionate interest.

(iv) Respondents are jointly and severally liable. However, Respondent No.2 is liable to pay the compensation 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 respondent(s) 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(s) 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.

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

A. HARI HARANADHA SARMA, J

Date:22.01.2026
Knr

HON'BLE SRI JUSTICE A. HARI HARANADHA SARMA

M.A.C.M.A No.4049 of 2014

22nd January, 2026

Knr