

APHC010507512021



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

**[3333]**

WEDNESDAY, THE FIRST DAY OF APRIL  
TWO THOUSAND AND TWENTY SIX

**PRESENT**

**THE HONOURABLE SMT JUSTICE V.SUJATHA**

**MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NOS: 9/2022 &  
530/2021**

**MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 9/2022**

**Between:**

- 1.KUNDURI PULLAMMA, W/O KUNDURI KRISHNA, AGED 36 YEARS,B.C. COLONY, OPP. TO RTC BUS STAND, PULLALACHERUVU POST AND MANDAL, PRAKASAM DISTRICT.
- 2.KANDURI VENKATA LAKSHMI, D/O KRISHNA, AGED 7 YEARS,B.C. COLONY, OPP. TO RTC BUS STAND, PULLALACHERUVU POST AND MANDAL, PRAKASAM DISTRICT.
- 3.KANDURI SWATHI, D/O KRISHNA, AGED 5 YEARS,B.C. COLONY, OPP. TO RTC BUS STAND, PULLALACHERUVU POST AND MANDAL, PRAKASAM DISTRICT.
- 4.KANDURI KRISHNAVENI, D/O KRISHNA, AGED 3 YEARS,B.C. COLONY, OPP. TO RTC BUS STAND, PULLALACHERUVU POST AND MANDAL, PRAKASAM DISTRICT.
- 5.KUNDURI NAGAMMA, W/O CHINNA NARASIMHULU, AGED 65 YEARS,B.C. COLONY, OPP. TO RTC BUS STAND, PULLALACHERUVU POST AND MANDAL, PRAKASAM DISTRICT. PETITIONERS 2 TO 4 ARE BEING MINORS, REP. BY MOTHER (1ST PETITIONER) AS THEIR NEXT FRIEND.

**...APPELLANT(S)****AND**

- 1.KATI ADAM, S/O YESAIAH, AGED 38 YEARS, SC MALA BY CASTE, DRIVER OF THE AUTO BEARING NO. AP27TT8922, GOLLAVIDIPI YERRAGONDAPALEM MANDAL, PRAKASAM DISTRICT.
- 2.KATI PRABHUDAS, S/O LAZAR, AGED 25 YEARS, GOLLAVIDIPI VILLAGE, YERRAGONDAPALEM MANDAL, PRAKASAM DISTRICT, OWNER OF THE AUTO BEARING NO. AP27T18922.
- 3.ICICI LOMBARD GENERAL INSURANCE COMPANY LIMITED, REP. BY ITS AUTHORIZED SIGNATORY, VASU PLAZA, OPP. TO K.B. RESTAURANT, KURNOOL ROAD, ONGOLE TOWN, PRAKASAM DISTRICT.

**...RESPONDENT(S):**

Appeal filed under Order 41 of CPC praying that the Highcourt may be pleased to appellants begs to prefer this memorandum of appeal being aggrieved by the decree and judgment passed in M.V.O.P. 395/2017, dated 01-07-2021 on the file of Motor Accident Claims Tribunal -cum- VIII Additional District Judge, Parkasam District at Ongole

**Counsel for the Appellant(S):**

- 1.NUTHALAPATI KRISHNA MURTHY

**Counsel for the Respondent(S):**

- 1.GUDI SRINIVASU
- 2.

**MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 530/2021****Between:**

- 1.ICICI LOMBARD GENERAL INSURANCE COMPANY LIMITED,, REP. BY ITS AUTHORIZED SIGNATORY, VASU PLAZA, OPP. TO K.B. RESTAURANT, KURNOOL ROAD, ONGOLE TOWN, PRAKASAM

DISTRICT.

**...APPELLANT**

**AND**

- 1.KUNDURI PULLAMMA, W/O. KUNDURI KRISHNA, AGED 36 YEARS,
- 2.KUNDURI VENKATA LAKSHMI, , D/O.KRISHNA, AGED 7 YEARS,
- 3.KUNDURI SWATHI, D/O. KRISHNA, AGED 5 YEARS,
- 4.KUNDURI KRISNAVENI, , D/O. KRISHNA, AGED 3 YEARS,
- 5.KUNDURI NAGAMMA, , W/O. CHINNA NARASIMHULU, AGED 65 YEARS, (PETITIONERS 2 TO 4 ARE BEING MINORS, REP. BY MOTHER (1ST PETITIONER) AS THEIR NEXT FRIEND). ALL ARE RESIDENTS OF B.C. COLONY, OPP. TO R.T.C. BUS STAND, PULLALACHERUVU POST AND MANDAL, PRAKASAM DISTRICT.
- 6.KATI AADAM, S/O. YESAIAH, AGED 38 YEARS, SC MALA BY CASTE, DRIVER OF THE AUTO BEARING NO. AP 27 TT 8922, GOLLAVIDIPI VILLAGE, YERRAGONDAPALEM MANCIAL,PRAKASAM DISTRICT
- 7.KATI PRABHUDAS, , S/O. LAZAR, AGED 25 YEARS, GOLLAVIDIPI VILLAGE, YERRAGONDAPALEM MANDAL, PRAKASAM DISTRICT,OWNER OF THE AUTO BEARING NO. AP 27 TT 8922.

**...RESPONDENT(S):**

Appeal filed under Order 41 of CPC praying that the Highcourt may be pleased topleased to allow this appeal by setting aside the judgment and decree passed in M.V.O.P No,395 of 2017 on the file of the Motor Accidents Claims Tribunal - cum - VI11 Additional District Judge, Prakasam at Ongole dated 1st day of July, 2021

**IA NO: 1 OF 2021**

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 grant STAY of all further proceedings pursuant to the decree and Judgment dated 1st day of July, 2021 passed in M.V.O.P No.395 of 2017 on

the file of the Motor Accidents Claims Tribunal—cum—VIII -Additional District Judge Prakasam at Ongole, including execution proceedings, pending disposal of the main M.A.C.M.A.

**IA NO: 2 OF 2021**

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 permit the petitioners to withdraw the amounts deposited by the 1st respondent in pursuance of the order passed in IA No.1 of 21 in MACMA No. 530 of 2021 dated 01-11-2021 by this Honorable Court in MVOP No. 395 of 2017 on the file of MACT cum VIII Additional District Judge at Parkasam at Ongole and to pass such other order or

**Counsel for the Appellant:**

1.GUDI SRINIVASU

**Counsel for the Respondent(S):**

1.NUTHALAPATI KRISHNA MURTHY

**The Court made the following:**

**COMMON JUDGMENT:-**

Both these appeals arise out of the award dated 01.07.2021, passed by the Motor Accidents Claims Tribunal – cum – VIII Additional District Judge, Prakasam District at Ongole in M.V.O.P.No.395 of 2017. As such, I feel it appropriate to decide the issues by way of a common judgment.

2. The claimants filed an application before the Tribunal, initially under Sections 166 and 168 of the Motor Vehicles Act and Rule 455 of the Andhra Pradesh Motor Vehicle Rules, 1989 which was subsequently amended vide order dated 30.07.2019 in I.A.No.527 of 2019 to that of a petition under Section 163-A and 168 of the Motor Vehicles Act, 1988 and Rule 455 of the Andhra Pradesh Motor Vehicles Rules, 1989, claiming compensation of Rs.15,00,000/- for the death of one Kunduri Krishna (hereinafter referred to as 'deceased') in a road accident that occurred on 20.08.2014 at Mudra School, Yerragondapalem. The Tribunal awarded a compensation of Rs.9,77,000/- to the claimants. Aggrieved by the same, the claimants filed M.A.C.M.A.No.9 of 2022 and the 3<sup>rd</sup> respondent/insurance company filed M.A.C.M.A.No.530 of 2021.

3. For the sake of convenience, the parties are referred to as they are arrayed before the Tribunal.

4. The claimant No.1 is the wife, claimant Nos.2 to 4 are daughters and the claimant No.5 is the mother of the deceased. The 1<sup>st</sup> respondent is the driver and the 2<sup>nd</sup> respondent is the owner of the auto bearing No.AP-27-TT-8922 and the 3<sup>rd</sup> respondent is the insurer of the auto. On 20.08.2014, the deceased, who is aged about 40 years, along with his children went to Thripuranthakam and while returning to Yerragondapalem, he got into an auto bearing No.AP-27-TT-8922 which

was driven by the 1<sup>st</sup> respondent. When the auto reached Mudra School, Yerragondapalem, at about 11.00 a.m., the 1<sup>st</sup> respondent drove the same in rash and negligent manner, which led to the fall of the deceased out of the auto. The deceased sustained a head injury and was immediately shifted to Government General hospital, Guntur where he succumbed to injuries on 01.09.2014 at about 03.00 p.m., while he was undergoing treatment. The incident was reported to Yerragondapalem Police Station and accordingly a case was registered in Crime No.82 of 2014 against the 1<sup>st</sup> respondent under Section 304-A of the Indian Penal Code.

5. The respondent Nos.1 and 2 remained exparte. The 3<sup>rd</sup> respondent – insurance company, filed its counter affidavit denying the material allegations and contended that as per registration certificate, permit and policy pertaining to the auto bearing No.AP-27-TT-8922, its seating capacity is '3+1', which included the driver, but, as per the FIR, nine members were travelling in the auto at the time of accident. It further contended that the 1<sup>st</sup> respondent was not holding a valid license at the time of accident, which is breach of the contract and as such, the 2<sup>nd</sup> respondent alone is liable to pay compensation to the claimants. It further contended that the claim petition itself is not maintainable as it is filed under Section 163-A, whereas the claimants have shown the income of the deceased. A petition under Section 163-A has to be filed in connection with II-Schedule of Motor Vehicles Act without admitting the occupation and income of the deceased. It further contended that II-Schedule applies only where the income of the deceased does not cross Rs.40,000/- per annum, but, it is the version of the claimants that the income of the deceased was more than Rs.40,000/-.

6. Basing on the above pleadings, the Tribunal framed the following issues for trial:

- 1) *Whether the death of the deceased Kunduri Krishna @Krishnudu occurred at 11.00 a.m., on 20.08.2014 at Mudra School, Yerragondapalem – Tripuranthakam Road due to the rash and negligent driving of the 1<sup>st</sup> respondent driver of the auto bearing No. AP 27 TT 8922 of the 2<sup>nd</sup> respondent?*
- 2) *Whether the petitioners are entitled for compensation, if so, to what amount against whom?*
- 3) *To what relief?*

7. During the course of trial, in support of their case, the claimants got examined P.W.1 – wife of the deceased and got marked Exs.A1 to A7. On behalf of the respondents, the 3<sup>rd</sup> respondent got examined R.Ws.1 and 2, got marked Exs.X1 to X6.

8. The Tribunal, after considering the material available before it and also the contentions putforth by either parties, came to a conclusion that the claimants are liable to be paid Rs.9,77,000/- as compensation by respondent Nos.1 to 3. Thus, the petition filed by the claimants was partly allowed vide award dated 01.07.2021.

9. Heard Sri. N. Krishnamurthy, learned counsel for the claimants and Sri. GudiSrinivasu, learned counsel for the respondents.

10. During the course of arguments, learned counsel for the claimants reiterated the facts that led to filing of the present appeal and further contended that though the claim petition was filed seeking compensation of Rs.15,00,000/-, the Tribunal has only awarded a sum of Rs.9,77,000/- as compensation to the claimants and that it failed to add 40% of the annual income towards future prospects though the deceased is self employed and relied on several judgments delivered by this Court

to substantiate his claim for adding 40% of the annual income towards future prospects. Hence, requested this Court to enhance the compensation awarded by the Tribunal.

11. On the other hand, learned standing counsel appearing for the 3<sup>rd</sup> respondent strenuously contended that the rash and negligent driving of the 1<sup>st</sup> respondent is not proved; that nine persons were travelling in the subject auto though its maximum seating capacity is four including the driver. He further contended that the 1<sup>st</sup> respondent had no valid driving license and that the respondent Nos.1 and 2 have violated the terms and conditions of the insurance policy. The claim petition filed by the claimants is under Section 163A of the Motor Vehicles Act and that in such petitions, the annual income of the injured/deceased cannot exceed Rs.40,000/- to seek compensation. He contended that though the claimants themselves have admitted that the deceased used to earn more than Rs.1,20,000/- per annum, the Tribunal without considering the same has awarded the sum of Rs.9,77,000/- as compensation treating the petition as if it is filed under Section 166 of the Motor Vehicles Act. In a petition under Section 163A of the Motor Vehicles Act, compensation has to be granted to the claimants as per II Schedule of the Motor Vehicle Act. Hence, learned counsel for the 3<sup>rd</sup> respondent requested this Court to set-aside the impugned award passed by the Tribunal.

12. To prove that the accident occurred due to the rash and negligent driving of the 1<sup>st</sup> respondent, the 1<sup>st</sup> claimant got examined herself as P.W.1 and got marked Exs.A1 to A7 [ FIR, inquest report, alteration memo, postmortem report, Motor Vehicle Inspector's report, charge sheet, motor insurance cover]. Alleging that there is negligence on the part of the deceased, the 3<sup>rd</sup> respondent got examined R.W.1, who is

its legal manager and got marked Exs.X1 to X6. It is evident from the record that initially a case was registered against the 1<sup>st</sup> respondent for the offence punishable under Section 337 of the Indian Penal Code and subsequent to the death of the deceased, the Section of law was altered to 304A of the Indian Penal Code. After completion of the investigation, the Police have filed a charge sheet (Ex.A6) which discloses that the accident occurred due to the rash and negligent driving of the 1<sup>st</sup> respondent. Furthermore, it can be seen from Ex.X3 – insurance policy and Ex.X4 – driving license of the 1<sup>st</sup> respondent that as on the date of accident, the 1<sup>st</sup> respondent holds a valid driving license and the insurance cover of the subject vehicle is in force, thus, the Tribunal made all the respondents jointly and severally liable to pay compensation to the claimants. Thus, it can be safely drawn from the testimony of P.W.1 coupled with Exs.A1 to A7 that the accident in which the deceased died was the result of rash and negligent driving of the 1<sup>st</sup> respondent. Taking a similar view, the Tribunal had answered issue No.1 in favour of the claimants and no adverse inference can be drawn against the same.

13. With regard to the quantum, the Tribunal, in the absence of any evidence, took the income of the deceased as Rs.7,500/- per month, deducted 1/4<sup>th</sup> of it towards personal expenses [Rs.7,500/- - Rs.2,500/-], computed the annual income of the deceased as Rs.60,000/- and considering the age of the deceased as 40, applied the appropriate multiplier of '15' and awarded Rs.9,00,000/- [Rs.60,000/- X 15] to the claimants towards loss of dependency. In addition, it granted Rs.77,000/- as compensation under conventional heads keeping in view the decision of the Hon'ble Supreme Court of India in ***National Insurance Company***

***Vs. PranaySethi***<sup>1</sup>. In total, Rs.9,77,000/- was awarded to the claimants vide the impugned award.

14. Undisputedly, the claim petition was initially filed by the claimants under Section 166 and 168 of the Motor Vehicle Act and Rule 455 of the Andhra Pradesh Motor Vehicle Rules, 1989, but, the same was subsequently amended to that of a petition under Section 163A and 168 of the Motor Vehicle Act, 1988 and Rule 455 of the Andhra Pradesh Motor Vehicle Rules, 1989, vide orders in I.A.No.527 of 2019, dated 30.07.2019. Now the point that arises for consideration is whether the claimants are entitled for the awarded amount of compensation under a petition filed under Section 163A of the Motor Vehicles Act. For better understanding of the case, Sections 163A and 166 of the Motor Vehicles Act, 1988 are extracted hereunder:

**“163A. Special provisions as to payment of compensation on structured formula basis.—**

(1)Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle of the authorised insurer shall be liable to pay in the case of death or permanent disablement due to accident arising out of the use of motor vehicle, compensation, as indicated in the Second Schedule, to the legal heirs or the victim, as the case may be.

Explanation.—For the purposes of this sub-section, “permanent disability” shall have the same meaning and extent as in the Workmen’s Compensation Act, 1923 (8 of 1923).

(2)In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or permanent disablement in respect of which the claim

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<sup>1</sup> (2017) 16 SCC 680

has been made was due to any wrongful act or neglect or default of the owner of the vehicle or vehicles concerned or of any other person.

(3)The Central Government may, keeping in view the cost of living by notification in the Official Gazette, from time to time amend the Second Schedule.

**166. Application for compensation.—**

(1) An application for compensation arising out of an accident of the nature specified in sub-section (1) of section 165 may be made—

(a) by the person who has sustained the injury; or

(b) by the owner of the property; or

(c) where death has resulted from the accident, by all or any of the legal representatives of the deceased; or

(d) by any agent duly authorised by the person injured or all or any of the legal representatives of the deceased, as the case may be:

Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be impleaded as respondents to the application.

(2)Every application under sub-section (1) shall be made, at the option of the claimant, either to the Claims Tribunal having jurisdiction over the area in which the accident occurred or to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or within the local limits

of whose jurisdiction the defendant resides, and shall be in such form and contain such particulars as may be prescribed:

Provided that where no claim for compensation under section 140 is made in such application, the application shall contain a separate statement to that effect immediately before the signature of the applicant.”

15. Section 163A of the Motor Vehicles Act, 1988 introduces a special provision for the payment of compensation on a structured formula basis, creating a no-fault liability regime. Under this provision, the owner of the motor vehicle or the authorised insurer becomes liable to pay compensation to the victim or to the legal heirs of a deceased in cases of death. In a petition filed under this provision, the claimant is not required to establish negligence, wrongful act, or default on the part of the owner or any other person and compensation shall be determined strictly in accordance with the II Schedule prescribed under the Act. This provision is intended to provide speedy and predetermined compensation to victims of motor accidents or their dependents.

16. Section 166 of the Motor Vehicles Act, 1988 provides the substantive mechanism for filing an application for compensation arising out of a motor accident before the Motor Accidents Claims Tribunal. Under this provision, a claim petition may be instituted by the person who has sustained injury, by the owner of the damaged property, by the legal representatives of the deceased in case of death, or by any person duly authorised by them. A claim under Section 166 is upon the principle of fault liability, and therefore the claimant is required to establish that the accident occurred due to the rash or negligent act of the driver or owner of the offending vehicle. The Tribunal, upon appreciation of the pleadings and evidence adduced by the parties, determines the quantum of

compensation which appears to be just and reasonable, having regard to the nature of injuries, loss of dependency, medical expenses, and other attendant circumstances.

17. The Second Schedule to the Motor Vehicles Act contains a table prescribing the compensation to be awarded with reference to the age and income of the deceased. It specifies the amount of compensation to be awarded with reference to the annual income range of Rs.3,000/- to Rs.40,000/-. It does not specify the quantum of compensation in case the annual income of the deceased is more than Rs.40,000/-, however, it provides the multiplier to be applied with reference to the age of the deceased. The table starts with a multiplier of 15, goes up to 18 and then steadily comes down to 5. It also provides the standard deduction as one-third on account of personal living expenses of the deceased. As such, where an application is under Section 163A of the Motor Vehicles Act, it is possible to calculate the compensation on the structured formula basis, even where the compensation is not specified with reference to the annual income of the deceased or is more than Rs.40,000/- by applying the formula: Two-thirds of the annual income multiplied by the multiplier applicable to the age of the deceased. Several principles of tortious liability are excluded when the claim is under Section 163A of the Motor Vehicles Act. It has to be noted that where the annual income of the deceased exceeds Rs.40,000/-, a claim under Section 163A of the Motor Vehicles Act is not maintainable as the said provision is restricted to a specified income group; in such cases, the appropriate remedy lies under Section 166 of the Act.

18. The Hon'ble Supreme Court of India, in ***Deepal Girishbhai Soni and ors., Vs. United India Insurance Company Limited***<sup>2</sup>, while dealing with Section 163A of the Motor Vehicles Act, 1988 held as under:

“Chapter XI was, thus, enacted for grant of immediate relief to a section of people whose annual income is not more than Rs. 40,000/- having regard to the fact that in terms of Section 163-A of the Act read with the Second Schedule appended thereto; compensation is to be paid on a structured formula not only having regard to the age of the victim and his income but also the other factors relevant therefor. An award made thereunder, therefore, shall be in full and final settlement of the claim as would appear from the different columns contained in the Second Schedule appended to the Act. The same is not interim in nature. The note appended to column 1 which deals with fatal accidents makes the position furthermore clear stating that from the total amount of compensation one-third thereof is to be reduced in consideration of the expenses which the victim would have incurred towards maintaining himself had he been alive. This together with the other heads of compensation as contained in column Nos. 2 to 6 thereof leaves no manner of doubt that the Parliament intended to lay a comprehensive scheme for the purpose of grant of adequate compensation to a section of victims who would require the amount of compensation without fighting any protracted litigation for proving that the accident occurred owing to negligence on the part of the driver of the motor vehicle or any other fault arising out of use of a motor vehicle.”

19. Chapter XI of the Act was enacted to provide immediate relief to a limited class of victims whose annual income does not exceed Rs.40,000/- as compensation under Section 163-A and it is determined on a structured formula basis, as discussed above and is intended to be a full and final settlement without the need to prove negligence. Therefore, persons having an income above Rs.40,000/- are not entitled to file a

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<sup>2</sup> 2004 (5) SCC 385

petition under Section 163-A. In the present case, though the claimants themselves have contended that the deceased used to earn Rs.400/- to Rs.500/- per day, in which case the annual income exceeds Rs.40,000/-, the Tribunal considered the same despite the claim being filed under Section 163-A, which is contrary to the very scheme and intent of the provision.

20. It is the case of the claimants that the deceased used to earn Rs.400/- to Rs.500/- per day per day by working as a tailor and some additional works in the surrounding villages. However, no evidence was adduced by the appellants to elicit the income of the deceased. Thus, as the claim petition was filed under Section 163A of the Motor Vehicles Act, the annual income of the deceased can be considered as Rs.40,000/- and as the deceased was aged about 40 years, as can be seen from the inquest report (Ex.A2) and postmortem certificate (Ex.A4), the compensation can be computed by using the formula “ $\frac{2}{3}$ <sup>rd</sup> of the annual income multiplied by applicable multiplier”. Now,  $\frac{2}{3}$ <sup>rd</sup> of Rs.40,000/- is Rs.26,667/- and the relevant multiplier is ‘16’. Thus, the claimants are entitled for a total amount of Rs.4,26,672/- [Rs.26,667/- X 16]. It is predetermined in the Second Schedule that in case of death, in addition to the amount already awarded under loss of income, Rs.2,000/- is to be awarded towards funeral expenses, Rs.5,000/- towards loss of consortium (to spouse alone), Rs.2,500/- towards loss of estate and Rs.15,000/- (if supported by medical bills). Keeping in view the same, the claimants are entitled to a sum of Rs.4,51,172/-.

21. It is the contention of learned counsel for the claimants that they are entitled for adding 40% of the annual income towards future prospects though the claim petition is filed under Section 163A of the Act

as per ***National Insurance Company Limited Vs. Pranay Sethi and Others*** (1<sup>st</sup> supra). It is observed in the said judgment that the determination of income while computing compensation has to include future prospects so that the method will come within the ambit and sweep of just compensation as postulated under Section 168 of the Motor Vehicles Act. Admittedly, compensation to be computed under Section 163 of the Motor Vehicles Act is based on a structured formula as it is based on no fault liability, as discussed earlier. Once a claimant invokes the provisions of Section 163A, the question of inclusion of pecuniary compensation for non-tangibles and future prospects does not arise. The Hon'ble Division Bench of Sikkim High Court in ***The Branch Manager, Shriram General Insurance Company Limited Vs. Dilu Rai and other***<sup>3</sup>, while dealing with a similar issue whether future prospects or any other additional non-pecuniary heads finds place in a petition filed under Section 163A of the Motor Vehicles Act, held as under:

“It needs no reiteration that the Supreme Court has clearly spelt out as evident from the decisions cited supra that compensation to be computed under Section 163 of the M.V. Act is on the structured formula as it is based on no fault liability. Once a person invokes the provisions of Section 163A, the question of inclusion of pecuniary compensation for non-tangibles and future prospects does not arise.

20. ....under Section 163A future prospects or any other additional non-pecuniary heads finds no place and compensation in a Claim Petition under Section 163A of the M.V. Act is to be strictly computed on the structured formula provided in the Second Schedule to the Act.”

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<sup>3</sup> M.A.C.A.No.10 of 2018

22. Learned counsel for the claimants relied on several judgments passed by a single bench of this Court, but, however, the Apex Court in ***Deepal Girishbhai Soni and ors., Vs. United India Insurance Company Limited*** (2<sup>nd</sup> supra), has already held that chapter XI of the Motor Vehicles Act was enacted to provide immediate relief to a limited class of victims whose annual income does not exceed Rs.40,000/- as compensation under Section 163A and the same is determined on a structured formula basis. The Apex Court further held that in a petition under Section 163A of the Motor Vehicles Act, compensation has to be granted to the claimants as per II Schedule of the Motor Vehicle Act, which does not refer to awarding compensation under the head of future prospects. Hence, it can be safely concluded that the claimants are not entitled for compensation under any non-pecuniary heads except the ones mentioned in the II Schedule of the Motor Vehicles Act.

23. In the result, M.A.C.M.A.No.9 of 2022 filed by the claimants is hereby dismissed and M.A.C.M.A.No.530 of 2021, filed by the 3<sup>rd</sup> respondent/insurance company is partly allowed and the amount of compensation awarded by the Tribunal is restricted to Rs.4,51,172/- from Rs.9,77,000/-. There shall be no order as to costs.

Consequently, miscellaneous applications pending, if any, shall stand closed.

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**JUSTICE V. SUJATHA**

Date:01.04.2026

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