BEFORE THE CHAIRMAN, MOTOR ACCIDENTS CLAIMS TRIBUNAL-CUM-COURT OF THE I ADDITIONAL CHIEF JUDGE,
CITY CIVIL COURT, AT SECUNDERABAD.

Present : SRI A. VEERAIAH,
Chairman MACT-cum-I ACJ

WEDNESDAY, THIS THE 2nd DAY OF APRIL, 2025

M.V.O.P. NO. 897 OF 2022

Between :

1. Vangalapudi Siromani @ Macha Siromani,
D/o.V.Pavanamurthy, W/o Late. Macha Vijay krupakar,
Aged about 31 years, Occ: House wife

2. Macha Viven, S/o. Late. Macha Vijay Krupakar,
Aged about 6 year, Occ: Student

3. Macha Prajin Joel, S/o. Late. Macha Vijay Krupakar,
Aged about 4 year, Occ: Nil,

(Petitioners No.2 & 3 being a minors
Rep. By natural Mother and Guardian
on behalf of Petitioners No. 2 & 3)

4. Macha Suvarna Jyothi, W/o. Late.Venkaiah,
Aged about 62 years, Occ: House wife.

All are Permanent R/o. H.No.20-11,
Yellandu, Bhadradri-Kothagudem disrtict,
Presently R/o.H.No. 1-349/28/2,
Namalagundu, Warasiguda, Secunderabad.

--Petitioners

And

1. Chennamoni Laxmaiah S/o. C. Kondaiah,
Aged: 44 Years, Occ: Driver of crime vehicle,
R/o. H. No. 5-13, Yendabetla village,
Nagarkurnool mandal,
Mahabubnagar district, Pin. 509209.
(Driver of the DCM Bearing No. TS 12-UC-9704)

2. Krishna reddy Nomula, S/o. Anatha reddy Nomula,
Aged about: major, Occ: owner of the crime vehicle.
R/o. H.No.19-2-78/4, Tadban, Bahadurpura,
Bahadurpura s.o, Hyderabad.
(Owner of the DCM Bearing No. TS 12-UC-9704)

3. The Cholamandalam MS General Insurance Co. Ltd.,
Rep. by its Legal Manager,
Branch: 1-2-73/2, 1-2-63 to 64, No.302,
3rd floor, S.R Arcade, Park-line, Secunderabad.

Policy No.3379/03004854/000/00
Valid from 09-09-2021 to 8-09-2022.

--Respondents

This petition is came before me on 27.01.2025 for final hearing in the presence of **Sri J.Ramesh, Advocate** for the Petitioners and **Sri M.Koti Raja Sekhar, Advocate** for Respondent No.3 and the **Respondents No. 1 and 2 were set ex parte** and the matter having been heard and stood over for consideration till this day, the Court passed the following :-

O R D E R

1. This petition is filed under Sec.166 of M.V.Act, 1988 and Rule 455 of M.V.Rules, R/W Sec.140 of A.P.M.V.Act. 1989 by the petitioners seeking compensation of Rs.1,20,00,000/- against the Respondents jointly and severally along with interest @ 18% per annum from the date of accident till the date of realization of the amount for the death of Macha Vijay Krupakar @ Macha Vijay in the motor vehicle accident occurred on 29.08.2022.

2. The brief averments in the petition are as follows:-

On 29.08.2022, at about 19:00 hours, the deceased Macha Vijay @ M.Viajay Krupakar proceeding on his Scooty bearing No. TS 07 GA 4933 from his work place AIG Hospital Gachibowli, towards his residence Bandlaguda, with care and diligence and left side of the road, when he reached ORR TSPA underpass Service road, meantime the driver of one

DCM Vehicle bearing No. TS 12-UC-9704 drove his vehicle in rash and negligent manner with high speed and dashed to deceased vehicle from the back side, due to which the deceased Macha Vijay Krupakar fell on the road and immediately, after the accident he was shifted to Shadan hospital through 108 ambulance and duty doctors declared him as died. It is further stated that the police Narsingi, Cyberabad, had registered the case in crime No. 1078 of 2022 U/s. 304 (A), IPC. & 184, 185 & 80 (a) of M.V.Act. It is further stated that the deceased Macha Vijay Krupakar @ Macha Vijay S/o. Late. Macha Venkaiah, was aged about 34 years at the time of the accident, and working as a Bio-Service engineer in Draeger India private Limited, at Hyderabad branch and he was drawing salary of Rs.45,151/- p.m. Due to the sudden death of the deceased, the petitioner No.1 lost her life partner. The petitioners lost their bread winner and life supporter and they worried for their future life. It is further stated that the Respondent No. 1 is the driver of the crime vehicle, Respondent No.2 is the owner of the crime vehicle and the Respondent No. 3 is the insurer of the crime vehicle. Hence, the petition.

3. The Respondents No.1 and 2, who are the Driver and Owner of the offending vehicle were set ex parte.

4. The Respondent No.3, filed its counter contending that the petition is not maintainable either on facts or in law against the Respondent. It is further stated that the Respondent is at present unable to admit whether the interest of Krishna Reddy Nomula, Owner of Vehicle DCM bearing no. TS-12-EC-9704 was insured with the Respondent at the material time unless further and better particulars regarding the Insurance are disclosed by the claimants.

5. The Respondent further denies the allegations regarding the relationship of the petitioners with the deceased. The petitioners have to prove the relationship with the deceased and they are dependent on the earnings of the deceased as otherwise the petitioners are not entitled for any amount of compensation.

6. It is further stated that the alleged accident took place due to sole negligence on the part of the deceased rider only who rode the motor cycle Scooty bearing no. TS-07-GA-4933 in a rash and negligent manner without holding mandatory driving license and without wearing proper head gear (helmet) in contravention of Sec 129 of MV Act and without following any traffic rules himself caused the accident which clearly shows that there was gross negligence on the part of the deceased, rider only to cause the alleged accident and his negligence may be considered into at greater extent and if the petitioners are entitled to any compensation it is also payable by the owner and insurer of the Motor Cycle Scooty bearing no. TS-07-GA-4933 only and the owner and insurer of the said motor cycle are also proper and necessary parties to the proceedings, but the petitioners failed to make them as parties and it is very bad in law for non joinder of necessary parties and the present claim petition is liable to be dismissed.

7. It is further stated that the person driving the vehicle has "no relation in force" as on the date of accident to drive the vehicle DCM bearing no. TS-12-UC-9704. It is further stated that driver of the vehicle DCM bearing no. TS-12-UC-9704 was not holding a valid and effective driving license at the time of the accident and further was not qualified for holding or obtaining such driving license and further has not satisfied the requirements of the Rule No. 3 of the Central Motor Vehicles Rules, 1989. One can drive the vehicle DCM if he should have MMV TRANSPORT driving license, but the driver of the said vehicle did not possess valid and effective driving license as on the date of accident to drive the said vehicle. The respondent No. 2 willfully and knowingly handed over the possession of the vehicle to his driver who did not possess the valid and effective driving license to drive the vehicle DCM and therefore has contravened the provision of the MV Act and the Rules framed there under.

8. It is further stated that the respondent seeks protection under the section 147 and 150 of M.V Act. It is further stated that as per section 134 [C] of M.V. Act 1988, it is mandatory duty of the respondent No.2 to furnish the particulars of policy, date, time and place of accident, particulars of deceased and the name of the driver and particulars of the driving license but the second respondent has not complied with statutory demand. It is further stated that as per Sec. 159 of M.V. Act, 1988, it is a mandatory duty of the concerned Police station to forward all the relevant documents to the concerned insurer within 30 days from the date of the information but the Narsingi (Cyberabad) Police Station failed to forward the documents and not complied with the statutory demand.

9. The petitioners have to prove that the registered owner used the vehicle DCM bearing no. TS-12-UC-9704 without any breach of Permit, Fitness and Traffic rules as per M.V Rules. It is further stated that the petitioners claimed interest @18% which is highly excessive and same is contrary to Section 3 of Interest Act, 1978.

10. The respondent further denies the allegation that the vehicle DCM bearing no. TS-12-UC-9704 was involved in the above alleged accident and it was driven in a rash and negligent manner and the petitioners have to prove the same. The respondent is not aware and denies for want of knowledge that the Deceased was aged about 34 years and used to earn a sum of Rs.45,151/- per month as Bio-Service Engineer (Service Engineer) in Draeger India Pvt Ltd at Hyderabad. The Respondent further denies the allegations regarding the manner in which the alleged accident said to have occurred.

11. The Respondent further denies that the Narsingi (Cyb) Police station registered a case in crime No. 1078/2022 U/s. 304 (A) of IPC and 184, 187 MV Act against the driver of the vehicle DCM bearing no, TS-12-UC-9704. It is further stated that the respondent craves leave of this Hon'ble court to take all defenses available to the respondent No. 2 and contest the case on all the grounds apart from those specified U/s. 150 of M.V. Act.

12. It is further stated that, the amount of Rs.1,20,00,000/- with interest and costs claimed by the petitioners in the petition in itself suggests the fact that their claim is more excessive exorbitant and exaggerated and the petitioners are not entitled for the same from the respondent. It is therefore prayed to dismiss the petition with costs.

13. Based on the respective pleadings of the parties, the following issues were settled for trial by my learned predecessor-in-office :-

1) Whether the pleaded accident occurred resulting in death to the victim viz., **Macha Vijay Krupakar @ Macha Vijay** due to rash and negligent driving of the driver of **DCM Vehicle bearing No.TS-12-UC-9704** ?

2) Whether the petitioners are entitled to any compensation and if so, to what amount and from whom?

3) To what relief?

14. On behalf of the petitioners, the petitioner No.1 herself examined as PW1 and through her, Ex.A1 to Ex.A16 got marked. One, Kottani Laxmi Chaitanya, examined as PW2 and Rajesh Kumar Methuku, examined as PW3 through him Ex.X1 to Ex.X5 got marked. On behalf of Respondent No.3, S.Sharada examined as RW1 and through her Ex.B1 True copy of the Policy along with terms and conditions got marked.

15. Written arguments filed on behalf of Petitioners and Respondent No.3. Memo of citations filed by Respondent no.3.

a) The learned counsel for petitioners has argued that the petitioners who are wife, children and mother filed the petition for the compensation of Rs.1,20,00,000/-. He further argued that petitioners examined PW1 to 3 and got exhibits marked from Ex.A1 to Ex.A16 and Ex.X1 to Ex.X5. He further argued that the evidence of PW1 and PW2, the documents under Ex.A1 to Ex.A6 clearly established the accident was occurred due to the rash and negligent driving of the driver of the offending vehicle only. He further argued the deceased aged about 34 years at the time of accident and was working as Bio Service Engineer and earning Rs.45,151/- per month. He further argued that the petitioners are entitled for future prospectus, consortium, loss of estate and funeral expenses. He further argued that the petitioners are entitled for just compensation.

b) On the other hand, the learned counsel for Respondent No.3 has argued that the accident occurred due to sole negligence of the deceased. He further argued that the deceased did not wear the helmet contributed to the accident. He further argued that the petitioners failed to establish the income of the deceased. He further argued that the petitioners are not entitled for consortium, interest on future prospectus. He further argued to limit the interest @ 6% per annum.

16. **ISSUE NO.1 :- Whether the pleaded accident occurred resulting in death to the victim viz., Macha Vijay Krupakar @ Macha Vijay due to rash and negligent driving of the driver of DCM Vehicle bearing No.TS-12-UC-9704 ?**

The petitioner No.1, who is the wife of the deceased herself examined as PW1 and in her chief-examination, she reiterated the contents of the petition. Through her, Ex.A1 to Ex.A16 are marked. **Ex.A1** is the Certified copy of FIR along with complaint, **Ex.A2** is the Certified copy of Charge sheet, **Ex.A3** is the Certified copy Inquest Report, **Ex.A4** is the Certified copy of Post Mortem Examination, **Ex.A5** is the Certified copy of Motor Vehicle Inspection Report, **Ex.A6** is the Certified copy of Crime Detail form along with rough sketch and Panchanama, **Ex.A7** is the Original Offer and appointment letter along with annexure issued by Draeger India Private Limited, **Ex.A8** is the Original Payslip for the month of August 2022 issued by Draeger India Private Limited, **Ex.A9** is the ID card of the deceased issued by Draeger India Private Limited (Verified with Original), **Ex.A10** is the Attested copy of Bank Statement of the deceased issued by HDFC Bank, **Ex.A11** is the Driving License of the deceased (Verified with Original), **Ex.A12** is the Pan Card of the deceased (Verified with Original). **Ex.A13** is the SSC Certificate of the deceased (Verified with Original), **Ex.A14** is the Aadhar Card of the deceased, **Ex.A15** is the Aadhar Cards of Petitioners 1 to 4, and **Ex.A16** is the Registration Certificate of the deceased vehicle(Verified with Original).

17. The learned counsel for the Respondent No.3 cross examined PW1. PW1 in her cross-examination deposed that she is the complainant. She is not the eyewitness to the accident and she has received information about the accident through phone call. The deceased was her husband. Her deceased husband was proceeding by motor cycle as a rider as on the date of accident. She denied the suggestion that her deceased husband was not wearing helmet at the time of accident. As per the Exhibit A4: PME report her deceased husband died due to head injury. She deposed that as per Ex.A1 the complainant lodged against DCM bearing No. TS 12 OC 9704. Witness adds that in Ex: A1 FIR, it was wrongly mentioned TS 12 OC 9704 instead of TS 12 UC 9704 and all the Crime records i.e., Ex:A2,A5,A6 mentioned the correct vehicle number i.e., DCM bearing No. TS 12 UC 9704. She deposed that the father of the deceased died long back. She denied the suggestion that the Ex: A7, A8, A9, A10 are created and fabricated for the purpose of claim.

18. PW2 Kottani Laxmi Chaithanya in his chief examination deposed that on 29-08-22 after completing his duty, he left from the office at about 6.45 p.m. on his bike bearing No. TS07 FQ 4003 to go to his home, when he reached under pass TSPA service road at about 7.00 p.m. one DCM bearing No. TS 12UC 9704was proceeding in front of him and one scooty bearing No. TS 07GA 4933 was going in front of said DCM. The rider of scooty slowed his vehicle as there was speed braker a head, in the meantime the driver of the DCM drove his vehicle with high speed in rash and negligent manner and dashed the scooty from backside, as a result, the rider of scooty fell down on the road and received grievous injuries and died on the spot. Later, he was shifted to Shadan hospital, the duty doctors declared that he was brought dead. He further deposed that immediately after the accident he informed about the accident to the deceased wife through phone. The accident was occurred due to the rash and negligent driving of the driver of the DCM bearing No. TS 12 UC 9704.

19. The learned counsel for Respondent No.3 has cross examined PW2. PW2 in his cross examination admitted that he has the received any summons from this Hon'ble court, at request of the petitioner he came to court to give evidence and he is working in Tata Motors at Gachibowli since seven years. He admitted that he has not lodged any police complaint regarding the accident. The police examined him on the same day. He has not yet received any summons from the criminal court to give evidence and he does not know the stage of the criminal case. He deposed that the accident was occurred in front of him nearly at a distance of 25 to 30 fts.

20. PW3 Rajesh Kumar Methuku, in his chief examination deposed that he was deputed by their company to depose in this case with regard particulars of deceased by name Macha Vijay @ Vijay Kumar. He is working as Area Sales Manager (AP & TS) in Draeger India Pvt. Limited since 5 years. The Deceased by name Macha Vijay @ Vijay Kumar is their permanent employee. He was appointed on 1/12/2020 as a Service Engineer based at Hyderabad vide Emp. Code No. DI 326267 with Grade M2. The deceased was drawing his last pay/Salary of Rs.45,151/- for the month of Aug, 2022 as gross salary and their company pay the salaries to the employees through Bank account. The deceased salary Bank account is HDFC bank. The Promotional increment is 10% on salary. If the deceased would have been alive he would get promotion and his salary may increased 10% as promotional increment. Through him Ex.X1 is the Authorization Letter, Ex. X-2 is the Attested Offer Letter of the Deceased, Ex. X-3 is the Attested Pay Slips in No's. 5 (Apr-2022 to Aug-2022) of the Deceased, Ex. X-4 is the Attested Copy of Emp. ID Card of the Witness (P.W-3) were marked. The Ex. A-7, A-8 and A-9 are issued by their company. During his service, the deceased conduct is good and satisfactory.

21. The learned counsel for Respondent No.3 has cross examined PW3. PW3 in his cross examination admitted that he knows the deceased as his colleague. He admitted that the deceased was in same designation from date of joining to till his death. He admitted that he has not filed document to show that the deceased employee was eligible for salary hike @ 10% every year. He admitted that he has not filed document to show that the deceased employee was eligible for variable pay @ 20% per year. Witness adds that: the deceased get the variable pay in the month of April every year and it is shown in the month of Apr, 2022 pay slip. As per their company norms offer letter (offer of employment) itself is treated as appointment letter. He admitted that the salary revision of employee is discretionary and lies with the management irrespective of the performance. He admitted that he has not produced the document showing the CTC (cost to company) for the year, 2022 ie, at the time of death of employee. Witness produced the CTC for the year 2022 along with letter of increment during the commission and same is marked as Ex.X-5. He admitted that in Ex. X-3 shows the salary of Rs. 45,151/- for the months of May. 2022 to Aug, 2022. Witness adds that: the increasing the salary for the month of Apr, 2022 was due to arrears for the month of Jan to Mar was paid to the employee in the month of Apr, 2022 every calendar year. As per their company norms they do not have compassionate appointments.

22. On behalf of the Respondent No.3 S.Sharadha, examined as RW1 and RW1 in her chief examination deposed that the Respondent No. 3 has issued a Policy vide No. 3379/03004854/000/00 for the Vehicle DCM bearing no. TS-12-UC-5704. The Policy was valid for the period from 09/09/2021 to 08/09/2022 and was in force as on date of alleged accident i.e., on 29/08/2022 subject to its terms, conditions, exceptions, limitations and liability of the Policy. She further deposed that as per the depositions of the witnesses examined on behalf of the petitioners coupled with the recitals of the available documents and the documents relied and exhibited on behalf of the petitioners, the alleged accident took place while the deceased proceeding as rider by the vehicle Motorcycle Scooty bearing no. TS-07-GA-4933 and he slowed down his vehicle Scooty near Speed breaker without any signal/indication as such the accident took place due to his self negligence only. The deceased was instrumental in occurrence of the accident. She further deposed that as per the recitals of the available documents I.e.., Ex.A4 (Post Mortem Report) reveal that the cause of death was due to "Head Injury which can establishes the material fact that the deceased was not wearing proper head gear (HELMET) the time of alleged accident, which is a violation of Section 129 of MV Act, further if he would have wore the helmet he would have not sustained head injury and died. Hence, the negligent driving and non-wearing of helmet by him at the material time of accident contributed to the accident. She further deposed that Considering the above facts the respondent insurance company not at all liable to pay any sort of compensation to the petitioners and the compensation if any entitled by the petitioner shall be payable by the respondent no 1 & 2 alone. She further deposed that in the present case neither the Respondent No.2 nor the concerned Police i.e., Narsingi has informed the alleged accident to their company which is mandatory on their part as per the provisions of MV Act. The Respondent insurance company came to know about the accident only when summons were served from this Hon'ble Court. Through her Ex. B1-True copy of Policy along with terms and conditions was marked.

23. The learned counsel for Petitioners cross examined the RW1. RW1 in her cross examination admitted that the policy was in force as on the date of the accident, subject to terms and conditions and it is a package policy. She admitted that the deceased was third party to the policy. Ex.B1 policy was in force for third parties claim subject to terms and conditions. She admitted that in the crime record it is not mentioned that the deceased was not wearing helmet. She admitted that she is not the eye witness to the accident.

24. The petitioners relying on Exhibits Ex.A1 to Ex.A16 documents. **Ex.A1** is the Certified copy of FIR along with complaint. It shows that Smt. V.Siromani lodged report stating that her husband was proceeding on Scooty bearing No. TS 07 GA 4933 when he reached underpass TSPA service road, one driver of DCM vehicle bearing No. TS 12 OC 9704 drove the vehicle in rash and negligent manner and dashed the motorcycle, as a result, the petitioner No.1 husband received a grievous head injury and died on spot. It further shows that the Police Narsingi (CYB) registered FIR No.1078/2022 under Sec.304(A) IPC, 184, 187 M.V.Act against the driver of DCM vehicle. **Ex.A2** is Certified copy of Charge sheet. It shows that Police, Narsingi filed Charge Sheet before the XIII Additional Metropolitan Magistrate at Rajendranagar against Chennamoni Laxmaiah, Respondent No.1 herein for the offence under Sec.304-A IPC, 184, 187, 80 (A) M.V.Act. **Ex.A3** is Certified copy Inquest Report. It shows that the Panchayatdars opined that the deceased died due to the injuries received in the accident. **Ex.A4** is Certified copy of Post Mortem Examination. It shows that the cause of death is due to head injury. **Ex.A5** is Certified copy of Motor Vehicle Inspection Report. It shows that the accident occurred was not due to any mechanical defects of the vehicle. It further shows the driver name as Chennamoni Laxmaiah and Owner name as Sri.Krishna Reddy Nomula. **Ex.A6** is Certified copy of Crime Detail form along with rough sketch and Panchanama. It shows that, the place of accident. **Ex.A7** is Original Offer and appointment letter along with annexure issued by Draeger India Private Limited. It shows that, the offer letter of the deceased as Service Engineer. **Ex.A8** is the Original Payslip for the month of August 2022 issued by Draege India Private Limited. It shows that, the pay slip of the deceased for the month of August-2022. **Ex.A9** is the ID card of the deceased issued by Draeger India Private Limited (Verified with Original). **Ex.A10** is the Attested copy of Bank Statement of the deceased issued by HDFC Bank. It shows that, Bank statement of the deceased from 01.03.2022 to 31.08.2022. **Ex.A1**1 is the Driving License of the deceased (Verified with Original). It shows that the driving license of the deceased valid till 19.07.2038, Non Transport Light Motor Vehicle Non Transport, Motor cycle with Gear, **Ex.A12** is the PAN Card of the deceased (Verified with Original). **Ex.A13** is the SSC Certificate of the deceased (Verified with Original). It shows that, Date of Birth of the deceased as 20.07.1988. **Ex.A14** is the Aadhar Card of the deceased. **Ex.A15** is the Aadhar Cards of Petitioners 1 to 4. **Ex.A16** is the Registration Certificate of the deceased vehicle(Verified with Original). **Ex.X1** is the Authorization

Letter. **Ex.X2** is the Attested Offer Letter of the Deceased. **Ex.X3** is the Attested Pay Slips in No's. 5 (Apr-2022 to Aug-2022) of the Deceased. It shows that pay slips for the month of April-2022 to August-2022. **Ex.X4** is the Attested Copy of Emp. ID Card of the Witness (P.W-3). **Ex.X5** is the Attested Copy CTC for the year 2022 along with letter of increment. It shows that revised salary increment letter of the deceased.

25. The Respondents No.1 and 2, who are Driver and Owner of the offending vehicle did not choose to contest, therefore, necessary inference to be drawn against them that they are not disputing the factum of accident.

26. The learned counsel for Respondent no.3 has relied upon the judgment between **The Divisional Controller, KSRTC Vs. Mahadeva Shetty and another** reported in AIR SCW 797 wherein the Hon'ble Supreme Court of India held that :

"There can be no exact uniform rule for measuring value of human life and measure of damage cannot be arrived at by precise mathematical calculation; but amount recoverable depends on broad facts and circumstances of each case. It should neither be punitive against whom claim is decreed nor it should be a source of profit of the person in whose favour it is awarded."

"Every member of this Court is anxious to do all he can do to ensure that the damages are adequate for the injuries suffered, so far as they can be compensated for an injury, and to help the parties and others to arrive at a fair and just figure."

"The normal expectation of life is impaired. But at the same time it has be to be borne in mind that the compensation is not expected to be a wind fall for the victim. Statutory provisions clearly indicate the compensation must be "just" and it cannot be a bonanza; not a source of profit but the same should not be a pittance. The Courts and Tribunals have a duty to weigh the various factors and quantify the amount of compensation, which should be just. What would be "just"”

“Every method or mode adopted for assessing compensation has to be considered in the background of "just" compensation which is the pivotal consideration. Though by use of the expression "which appears to it to be just" a wide discretion is vested on the Tribunal, the determination has to be rational, to be done by a judicious approach and not the outcome of whims, wild guesses and arbitrariness. The expression "just" denotes equitability, fairness and reasonableness, and non- arbitrary.”

27. The learned counsel for Respondent no.3 has relied upon the judgment between **Syed Basheer Ahamed & others Vs. Mohd. Jameel & another** reported in AIR 2009 SC 1219 wherein the Hon’ble Supreme Court of India held that :

“Nevertheless, the wide amplitude of such power does not empower the Tribunal to determine the compensation arbitrarily, or to ignore settled principles relating to determination of compensation. Similarly, although the Act is a beneficial legislation, it can neither be allowed to be used as a source of profit, nor as a windfall to the persons affected nor should it be punitive to the person(s) liable to pay compensation. The determination of compensation must be based on certain data, establishing reasonable nexus between the loss incurred by the dependents of the deceased and the compensation to be awarded to them. In nutshell, the amount of compensation determined to be payable to the claimant(s) has to be fair and reasonable by accepted legal standards. ”

"In General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Susamma Thomas (Mrs.) & Ors.2, M.N. Venkatachaliah, J. (as His Lordship then (1994) 2 SCC 176 was) had observed that the determination of the quantum must answer what contemporary society "would deem to be a fair sum such as would allow the wrongdoer to hold up his head among his neighbours and say with their approval that he has done the fair thing". The amount awarded must not be niggardly since the "law values life and limb in a free society in generous scales". At the same time, a misplaced sympathy, generosity and benevolence cannot be the guiding factor for determining the compensation. The object of providing compensation is to place the claimant(s), to the extent possible, in almost the same financial position, as they were in before the accident and not to make a fortune out of misfortune that has befallen them. "

28. The learned counsel for Respondent no.3 has relied upon the judgment between **Grace Geetha and another Vs. Vivek Transporters and another** CMA No. 10 of 2017 Dt: 04.11.2020, wherein the Hon'ble Madras High court held that: "25% of contributory negligence deducted for not wearing helmet."

"The appellants are therefore, entitled to get an enhancement in the following manner; The deduction towards contributory negligence should be 25% and not 50% as done by the Tribunal and the multiplier should be 18 instead of 14 as taken by the Tribunal."

29. Here this Tribunal has placed reliance on the judgment of the Bombay High Court in the matter of **New India Insurance Co. Ltd vs Suman Asaram Shinde And Ors (FIRST APPEAL NO.1260 OF 2017 ated 31.3.2021),** wherein the Hon'ble Bombay High Court held that "In the absence of any evidence on record, it cannot be stated that the deceased contributed to the accident. Mere not wearing helmet does not amount to contributory negligence." Therefore, the above judgment is not applicable to the present facts of the case.

30. The learned counsel for Respondent no.3 has relied upon the judgment between **New India Assurance Company Limited Vs. Somwati and others** wherein the Hon'ble Supreme Court of India held that :

"Motor Vehicles Act, 1988 Sec.166 – Quantum of compensation – Determination of - Compensation awarded in favour of the claimants under two heads, i.e., "Loss of Consortium" and "Loss of love and affection" – Held, consortium is only payable as a spousal consortium and consortium is not payable to children and parents – Impugned Order set aside."

31. The learned counsel for Respondent no.3 has relied upon the judgment between **Oriental Insurance Co. Ltd., Vs. Smt. Champabati Ray and 5 others** wherein the Hon'ble Supreme Court of India held that :

"21. Another ground of challenge to the impugned judgment is that the learned Tribunal had awarded interest on future prospects, which could not be done. In the case of Khusboo Chirania @ Kanta Chirania v. Kamal Kumar Sovasaria , reported in 2018 0 Supreme(Gau) 966 and in the case of Nasima Begum v. Keramat Ali, reported in 2019 0 Supreme(Gau) 507, this Court has stated no interest on future prospects should be given. Though no reasons have been enunciated in the above judgments, the reason for the same seems to be due to the fact that future prospects is relatable to an income to be received in the future and as such, there could not be any loss to the claimants for the payment of future prospects, at the time the deceased met with the accident. The reason for awarding interest on the compensation amount, minus the future prospects is due to the fact that though the loss of dependency starts from the date of the accident and the compensation amount is computed on the date of the Award of the Tribunal, interest is awarded to compensate the loss of money value on account of lapse of time, such as time taken for the legal proceedings and for the denial of right to utilize the money when due. However, future prospects is with regard to the probable income to be received in the future and as such there is no requirement to compensate the claimant by way of future interest, for the loss that is to occur in the future, as the future is yet to happen. Further, future prospects is given for the entire future and as such, the claimant is getting compensation in a lumpsum under future prospects prior to the occurrence of future event/s. Thus, with regard to future prospects, this Court is also of the view that there cannot be any interest on future prospects, as the same relates to an income to be given in the future."

32. The learned counsel for Respondent no.3 has relied upon the judgment between **Sri. Benson George Vs. Reliance General Insurance Co. Ltd., and another** wherein the Hon'ble Supreme Court of India held that :

"The impugned judgment and order passed by the High Court is modified to the extent and it is held that the original claimant shall be entitled to a total sum of Rs.1,41,94,333/ with interest at the rate of 6% per annum from the date of filing the claim petition till realization."

33. Thus, the evidence of PW1 coupled with the evidence of PW2 and Ex.A1 to Ex.A6 establishes that the deceased died in the accident due to rash and negligent driving of the driver of the Tipper Bearing No.TS 15 UB 3248 i.e., Respondent No.1. Accordingly, the Issue No.1 is answered.

34. **<u>ISSUE NO.2</u> :- Whether the petitioners are entitled to any compensation and if so, to what amount and from whom?**

35. The age of the deceased is shown 34 years in the petition and in Ex.A11 the Date of Birth mentioned as 20.07.1988 and the date of accident was on 29.08.2022. Therefore, the deceased age is taken as 34 years and the appropriate multiplier is **"16"**. There are four petitioners therefore, the 1/4th of income to be deducted towards personal expenses. The petitioners are entitled future prospectus at 40% as the deceased was below 40 years.

36. It is the contention of the petitioners that the deceased was working as Bio service Engineer and he used to draw the salary of Rs.45,151/- per month. The petitioners examined PWs 1 to 3 and as per Ex.A8, Ex.X3 the deceased was drawing salary of Rs.45,151/- and Rs.200/- to be deducted as professional Tax and it comes to Rs.44,951/-. Hence, the income of the deceased taken at Rs.44,951/-.

37. The first Petitioner is wife of the deceased, The petitioners 2 and 3 are children and Petitioner No. 4 is mother therefore they are entitled for **Spouse, Parental and Filial Consortium @ Rs.44,000/-** each. The petitioners are entitled for **Loss of Estate @ Rs.16,500/- and Funeral Expenses @ Rs.16,500/-**.

38. In view of the above discussion, the petitioners are entitled to the total compensation in all heads as follows :-

1)	Income of the deceased per month	Rs.44,951/-
2)	40% of the income to be added as future prospects on monthly income i.e., Rs.44,951/- x 40/100 = Rs.17,980/-	Rs.17,980/-
3)	Total Income per month	Rs.62,931/-

4)	1/4th of income to be deducted as personal and living expenses on Rs.15,733/- .	Rs.15,733/-
5)	The net income per month after deduction Rs.62,931/- - Rs.15,733/-	Rs.47,198/-
6)	Actual Income per annum Rs.47,198/- X 12	Rs.5,66,376/-
7)	The deceased is aged 34 years and the multiplier applicable is	16
8)	Compensation on applying the multiplier 16 is (Rs.5,66,376/- X 16)	Rs.90,62,016/-
9)	Spouse Consortium	Rs.44,000/-
10)	Parental Consortium @ 44,000/- X 2	Rs.88,000/-
11)	Filial Consortium	Rs.44,000/-
12)	Loss of Estate	Rs.16,500/-
13)	Funeral Expenses	Rs.16,500/-
	TOTAL	**Rs.92,71,016/-**

Thus, the petitioners are entitled to **Rs.92,71,016/-** towards just compensation.

39. A perusal of Ex.B1, True copy of policy along with terms and conditions shows the insured name as “Krishna Reddy Nomula” and the policy covers from 09.09.2021 to 08.09.2022. Therefore the policy was in force as on the date of accident i.e., 29.08.2022 and it is a package policy. Respondent No.1 is the driver, Respondent No.2 is the owner and Respondent No.3 is the Insurance Company, Hence, all the Respondents are jointly and severally liable to pay the compensation to the petitioners along with interest and proportionate costs. Accordingly, the Issue No.2 is answered.

40. <u>ISSUE NO.3</u> :- To what relief ?

In the result, the petition is allowed in part granting compensation of **Rs.92,71,016/- (Rupees Ninety Two Lakhs Seventy One Thousand Sixteen only)** to the petitioners with costs and interest @ 7% per annum from the date of filing of the petition till the date of deposit. The Respondents No.1 to 3 are jointly and severally liable to pay the said compensation to the petitioners.

The Respondents No.1 to 3 are directed to deposit the said compensation of **Rs.92,71,016/- (Rupees Ninety Two Lakhs Seventy One Thousand Sixteen only)** with interest within 45 days from the date of the Award.

Out of the above said compensation, the petitioner No.1 is entitled for **Rs.45,71,016/-** and Petitioners No.2 and 3 are entitled for **Rs.20,00,000/-** each and the petitioner No.4 is entitled for **Rs.7,00,000/-** and the petitioners No. 1 and 4 are permitted to withdraw their share of compensation amount along with interest and costs. The compensation apportioned to the Petitioners 2 and 3 @ **Rs.20,00,000/-** each to be deposited in any nationalized bank until they attains majority.

The Advocate fee is fixed at Rs.3,000/-.

The petitioners are directed to pay the exempted court fee within 30 days and the office is directed to prepare the decree.

Typed to my dictation by Typist corrected and pronounced by me in open court on 2nd Day of April, 2025.

Sd/-
CHAIRMAN
MACT-CUM-I ACJ, CCC,
SECUNDERABAD.

APPENDIX OF EVIDENCE

Witnesses Examined.

FOR PETITIONERS:-

PW1 : Vangalapudi Siromani @ Macha Siromani

PW2 : Kottani Laxmi Chaitanya

PW3 : Rajesh Kumar Methuku

FOR RESPONDENTS NO.1 & 2 :-

Ex parte

FOR RESPONDENT NO.3 :-

RW1 : S.Sharada

DOCUMENTS MARKED

FOR PETITIONERS:-

Ex.A1 - Certified copy of FIR along with complaint.

Ex.A2 - Certified copy of Charge sheet.

Ex.A3 - Certified copy Inquest Report.

Ex.A4 - Certified copy of Post Mortem Examination.

Ex.A5 - Certified copy of Motor Vehicle Inspection Report.

Ex.A6 - Certified copy of Crime Detail form along with rough sketch and Panchanama.

Ex.A7 - Original Offer and appointment letter along with annexure issued by Draeger India Private Limited.

Ex.A8 - Original Payslip for the month of August 2022 issued by Draeger India Private Limited.

Ex.A9 - ID card of the deceased issued by Draeger India Private Limited (Verified with Original).

Ex.A10 - Attested copy of Bank Statement of the deceased issued by HDFC Bank.

Ex.A11 - Driving License of the deceased (Verified with Original)

Ex.A12	-	Pan Card of the deceased (Verified with Original).
Ex.A13	-	SSC Certificate of the deceased (Verified with Original)
Ex.A14	-	Aadhar Card of the deceased.
Ex.A15	-	Aadhar Cards of Petitioners 1 to 4.
Ex.A16	-	Registration Certificate of the deceased vehicle(Verified with Original)
Ex.X1	-	Authorization Letter
Ex.X2	-	Attested Offer Letter of the Deceased
Ex.X3	-	Attested Pay Slips in No's. 5 (Apr-2022 to Aug-2022) of the Deceased.
Ex.X4	-	Attested Copy of Emp. ID Card of the Witness (P.W-3)
Ex.X5	-	Attested Copy CTC for the year 2022 along with letter of increment

FOR RESPONDENTS NO.1 & 2 :-

Ex parte

FOR RESPONDENT NO.3:-

Ex.B1	-	True copy of the Policy along with terms and conditions

Sd/-
CHAIRMAN
MACT-CUM-I ACJ, CCC,
SECUNDERABAD.