IN THE COURT OF THE CHAIRMAN, MOTOR ACCIDENT CLAIMS TRIBUNAL-CUM–II ADDITIONAL DISTRICT AND SESSIONS JUDGE, AT ADILABAD

Present:
Sri. M. SATISH KUMAR,
Chairman, Motor Accidents Claims Tribunal-Cum-
II Additional District and Sessions Judge, Adilabad.

Tuesday, this the 22nd Day of November, 2022

MVOP.No.90/2019

Between:

1. Thodasam Badhu, S/o. Bheemu, Age: 50 yrs., Occ: Agriculture,
2. Thodasam Yashwanth Rao, S/o. Thodasam Badhu, Age: 23 years, Occ: Student,
3. Thodasam Neelavathi, D/o. Thodasam Badhu, Age: 21 yrs., Occ: Student,
4. Thodasam Jayasri, D/o. Thodasam Badhu, Age: 20 yrs., Occ: Student,
5. Thodasam Kavitha, D/o. Thodasam Badhu, Age: 19 yrs., Occ: Student,
6. Thodasam Ravinder, S/o. Thodasam Badhu, Age: 17 yrs., Occ: Student

(The petitioner No.6 is minor under the guardianship of his natural father the Petitioner No.1 herein)

All R/o. Koyal Pandri village, Mdl: Indravelly, Dist: Adilabad.

...Petitioners

// And //

1. Shaik Lal Mohammad, S/o. Hyder, Age: Major, Occ: Driver of Lorry bearing No. AP.25.T.3497, R/o. Someshwara VG, Mdl: Bansuwada, Dist: Nizamabad.

2. Praladh, S/o. Laxman, Age: Major, Occ: Owner of Lorry bearing No. AP.25.T.3497, R/o. Goutaminagar, Nizamabad (Died per LR's).

3. Meerabai, W/o. Late Praladh, Age: Major, Occ: Wife and Legal Heir of owner of Lorry bearing No. AP.25.T.3497, R/o. H.No. 6-23-583, Goutaminagar, Nizamabad.

4. IFFCO-TOKIO General Insurance Company Ltdl., Represented by its Branch Manager, Branch Office, Second Floor, No.31, Above Conagra Foods, Opp: DBR Diagnostics, Sarojini Devi road, Secunderabad – 500 003.

...Respondents

CLAIM : Petition under Section 166 (1)(c) of Motor Vehicles Act 1988 claiming compensation of Rs.15,00,000/- for the death of Thodasam Kamalabai, **who is husband of the petitioner No.1, petitioner No.2 is the son, Petitioners No.3 to 5 are the daughters and petitioner No.6 is the minor son of the deceased** in a road traffic accident.

This case is coming on 16/09/2022 before me for final hearing in the presence of Sri G. Chandra Mohan, Advocate for petitioners, Sri Sanjay Kumar Vairagare, Advocate for respondent No.4, Respondent No.2 died and respondent No.1 and 3 are set ex-parte, upon perusing the material papers on record, upon hearing the arguments and the matter having stood over for consideration to this day, the Court delivered the following:-

:: O R D E R ::

This is a petition filed by the petitioners No.1 to 3 under Section **166(1)(c) of Motor Vehicles Act** (for short the 'Act') for compensation of **Rs.8,00,000/-** (Rupees Eight Lakhs Only) for the death of **Thodasam Kamalabai**, said to have been caused in a road traffic accident. Petitioner No.1 is the husband, petitioner No.2 is the son, Petitioners No.3 to 5 are the daughters and petitioner No.6 is the minor son of the deceased.

02. The case of the petitioners in brief as per the petition is as follows:-

On 09/01/2015 at about 15:45 hours, while the deceased/Thodasam Kamalabai was proceeding as passenger in an Auto bearing No. AP-01-X-6677 from Indanpally to Khanapur, while the auto reached near outskirts of Peddur thanda (V), at the same time one lorry bearing registration No. AP-25-T-3497 driven by its driver with rash and negligent manner and dashed to the auto from opposite direction. Due to which the deceased sustained severe head injury and other grievous injuries over vital organs of the body and died on the spot.

02.1. On receipt of the complaint the Police, Kaddam have registered a case in Cr.No.03/2015 under Section 304-A and 337 of IPC and subsequently filed charge sheet U/Sec.304-A and 338, 337 of IPC against the driver of Lorry bearing registration No. AP-25-T-3497.

02.2. The deceased was aged 40 years, was hale and healthy, he used to earn Rs.10,000/- per month by way of doing Agriculture, coolie works and household works. Deceased used to contribute her entire earnings to welfare and well being of family members. Due to sudden and unexpected death of the deceased the petitioners were totally deprived of future earnings of the deceased besides loss of love and affection and dependency. Due to death of the deceased, the petitioners suffered physically, mentally and financially. Petitioner No.1 is the husband, petitioner No.2 is the son, Petitioners No.3 to 5 are the daughters and petitioner No.6 is the minor son of the deceased. Therefore, petitioners claim for the value of future prospective earnings of the deceased. Therefore, the petitioners are entitled for compensation of Rs.15,00,000/- on all counts against the respondents but the petitioners are restricted their claim for Rs.8,00,000/- on all counts against the respondents, as the petitioners are unable to pay the Court fee as earning member in the family is died in the road traffic accident and the petitioners are at liberty to enhance their claim in future.

02.3. The accident occurred purely due to the rash and negligent driving of driver of lorry bearing registration No.AP-25-T-3497. The respondent No.1 is driver, The respondent No.2 is owner who reported died, the respondent No.3 is the wife and legal heir of respondent No.2 and the respondent No.4 is insurer of lorry bearing registration No.AP-25-T-3497 and the policy was in force as on the date of accident. Thus, all the respondents are jointly and severally liable to pay compensation.

03. On the other hand the respondent No.1 who is the driver of the offending lorry was set exparte and Respondent No.2 owner of the offending lorry was died as on date of filing of this petition. Respondents No.3 wife of the respondent No.2 who has added as L.R. of respondent No.2 and she was also set exparte.

03.1. Counter filed by the respondent No.4 the brief averments of the counter are that the respondent No.4 denied the material allegations of the petition.

Respondent No.4 submitted that the driver of the offending lorry bearing No.AP.25.T.3497 was not holding valid and effective driving license as on the date of the accident and not qualified for holding for obtaining such driving license and not satisfied rule 3 of central motor vehicles rules, 1989. He further submitted that the alleged accident took place due to the sole negligence on the part of the Auto No.A.P.01.X.6677 for carrying excess passengers than seating capacity of the vehicle and contributed to the accident and there was no negligence on the part of the lorry driver and the owner and driver of the Auto bearing No. AP.01.X.6677 are also necessary parties but the petitioners failed to add them as parties as such the petition is bad for ms-joinder of parties and liable to be dismissed on that ground. The respondent No.4 admitted that the offending Lorry bearing No.AP.25.T.3497 was covered at the material time and policy of insurance issued by respondent No.4 subject to terms and conditions compliance of Section 64VB of the Insurance Act, 1938 and the Policy issued by respondent No.4 bears No. 89976188 for the period 21.11.2014 to 20.11.2015 and further mentioned that insured may directed to produce the original policy. Respondent No. 4 further submits that the person driving the vehicle has no relation in force. The petitioners not entitled to claim any interest on non-pecuniary damages and the respondent No.4 denied that the offending lorry involved in the alleged accident and it was driven in a rash and negligent manner and respondent No.4 also does not admit denied that the police registered the case vide Cr.No.03/2015 under Section 304-A and 337 of IPC against the driver of the lorry and the respondent No.4 not aware about the age of the deceased and she used to earn Rs.10,000/- p.m. as a labourer and the claim of the amount is excessive and the interest on the award should not be more than 6% as per the judgment of the Hon'ble Apex Court and respondent No.4 seeks protection under Section 147, 148 of M.V. Act and respondent No.4 entitled to take all defences available to the respondent No.2 under Section 170 of M.V. Act apart from Section 142 of M.V. Act. Respondent No.4 further submitted that the petitioners already filed petition before the Hon'ble VIII Addl. District Judge's Court, Nizamabad vide O.P.No. 301/2015 for the same relief, as such this petition is liable to be dismissed. Respondents No.1 to 3 not furnished the information regarding the accident particulars as per Section 134(C) of M.V. Act. And the Police failed to follow the provisions of Section 158(6) of M.V. Act. and prayed to dismiss the petition.

04. On the above pleadings the following issues were framed by my learned predecessor for enquiry:-

1) **Whether the death of deceased was due to rash and negligent driving of the driver of Lorry bearing No. AP-25-T-3497 ?**
2) **Whether the petitioners are entitled to compensation amount, if so, at what amount and from whom ?**
3) **To what relief?**

05. On behalf of the petitioners, the Petitioner No.1 who himself examined as **PW.1** and got marked **Ex.A-1 to A-7**, one M. Gopal examined as **PW.2**. On behalf of respondents No.4, Rw.1 and Rw.2 are examined and Exs. B1 to B4 are marked.

06. Heard both sides and perused the record.

07. **ISSUE NO.1:**

Whether the death of deceased was due to rash and negligent driving of the driver of Lorry bearing No. AP-25-T-3497 ?

The son of the deceased petitioner No.1 examined as Pw.1 and deposed that on 09.01.2015 his mother/deceased by name Vedma Samudrabai boarded an auto bearing No. AP-01-X-6677 from Indanpally to Khanapur, while the auto reached near outskirts of Peddur thanda (V), at the same time one lorry bearing registration No. AP-25-T-3497 driven by its driver with rash and negligent manner and dashed to the auto from opposite direction. Due to which the deceased sustained severe head injury and other grievous injuries over vital organs of the body and died on the spot.

08. On receipt of the complaint the Police Kaddam have registered a case in Cr.No.03/2015 under Section 304-A and 337 of IPC and subsequently filed charge sheet U/Sec.304-A and 338, 337 of IPC against the driver/respondent No.1 of Lorry bearing registration No. AP-25-T-3497.

09. The petitioners got examined Islavath Mohan as Pw.2, Pw.2 deposed that on 09.01.2015 he went to the Khanapur town on his personal work and after completion of his work while returning from Peddur Thanda of Khanapur Mandal on a motor cycle on the way when he reached outskirts of Peddur Thanda about 15:45 hours one lorry bearing No.AP.25.T.3497 came from Khanapur side and proceeding towards Indanpally drove by its driver rash and negligent manner with high speed to overtake his motor cycle and while overtaking another vehicle went to the right side of the road and dashed to the Auto Rickshaw bearing No.AP.01.X.6677 in opposite direction due to which the occupants of auto rickshaw sustained multiple grievous injures and died on the spot. Pw.2 further submits that due to rash and negligent manner driver of the lorry A.P.25.T.3497 the accident and there is no negligence on the par tof the driver of the auto. He further deposed that the police also registered case in Cr.No. 03/2015 under Section 304-A, 337 of I.P.C. against the driver of the lorry in the said crime. In the cross examination Pw.1 denied suggestion that at the time of the accident there were 10 passengers were traveling in the auto bearing No. AP.01.X.6677, he pleaded ignorance that besides his mother Arka Girijabai, Athram Bheemrao, Vedma Samudrabai were also traveling in the auto. He denied suggestion that the accident occurred due to over load and also negligent driving of the driver of the auto and there was no negligence on the part of the driver of the lorry bearing NO.

A.P.25.T.3497, he denied a suggestion that the claim petition liable to be dismissed for non-joinder of owner and insurer of the auto. In the cross examination Pw.2 deposed that he did not lodge police report regarding accident and also he did not shift the injured to the hospital. He denied suggestion that he is not eye witness to the accident and he was closely associated with the petitioners' family as such he is giving false evidence and accident occurred due to mistake of the driver of the auto but no mistake of lorry.

10. On behalf of the respondent No.4 T. Veera Krishna Prasad, Manager (Legal) of the respondent No.4 company examined as Rw.1. Rw.1 deposed that at the time of the accident respondent No.1 not having Driving License and the accident occurred due to rash and negligent of the auto rickshaw bearing No. AP.01.X.6677, which was driven by the driver in high speed and rash and negligent manner and dashed to the offending lorry as the driver lost control over it due to loading as passengers in it as per the F.I.R. and charge sheet there were 9 passengers besides driver in the said Auto rickshaw at the time of the accident and the auto driver Md. Sharukh Khan not possessing any sort of driving license as on the date of the accident and as per the R.C. the seating capacity is 4 in all i.e. 3 passengers and driver but at the time of accident 9 passengers and driver travelled and it is clear that the passengers were travelling in over flooding in the said auto rickshaw and they were seating either side of the driving seat and projecting their body outside of the auto. Thus, the driver of the auto lost control over the steering and dashed against the lorry.

11. Pw.1 got marked Ex.A1 to A6 as per Ex.A1 is certified copy of F.I.R. along with Police report the accident occurred on 09.01.2015 at 03:45 p.m. and the police report lodged on the same day at 20:00 hours by one of the relative of the deceased passenger of the auto wherein the offending vehicle lorry number also mentioned. Ex.A2 is the certified copy of inquest panchanama over the body of deceased Thodasam Kamalabai, as per inquest report also it is mentioned that the deceased at the time of accident she was traveling in Auto bearing No. AP.01.X.6677 on 09.1.2015 and the offending lorry was dashed to the auto due to that the deceased received injuries and died on the spot. Ex.A3 is certified copy of P.M.E. As per the Ex.A3 cause of death is due to shock, due to head injury and injuries to vital organs. Ex.A4 is the certified copy of charge sheet. As per the Ex.A4 it was mentioned that on 09.01.2015 in the auto bearing No. AP.01.X.6677, the deceased herein and other 8 passengers were traveling from Indanpally to Khanapur, at that time the driver of the lorry A.P.25.T.2497 traveling from Nirmal to Morrimadugu village at the outskirts of Peddur Thanda the said lorry driver drove the lorry in rash and negligent and dashed to the auto in opposite direction due to which four occupants including deceased herein died on the spot and two passengers were succumbed to injuries at Govt. Hospital, Khanapur and other 3 passengers were received injuries and driver of the auto also received fracture injuries and further mentioned that the driver of the lorry did not possess the Driving License and charged for the offence 304-A, 337 and 338 of Indian Penal Code and Section 181 of M.V.Act. Therefore, it is proved that though as per the Ex.A4 it is proved that at the time of accident 9 passengers along with driver were traveling in the auto and the auto was over loaded and its seating capacity only three passengers and driver. But as per the Ex.A4 and evidence of the Pw.2 the driver of the offending lorry bearing No. AP.25.T.3497 drove the vehicle rash and negligent manner and dashed to the auto moreover on the spot four passengers of the auto were died and other two passengers were died while undergoing treatment and three passengers were received injuries, itself shows that the driver of the lorry drove the lorry in speed and rash and negligent manner and dashed to the auto, if really the driver of the auto drove the auto in rash and negligent manner as the driver of the lorry was higher position he can observe the auto which was coming in opposite direction thereby he can slow the vehicle and stop the lorry to prevent the accident but he did not do the same, hence, it is proved that due to rash and negligent driving of the offending lorry by respondent No.1 only the accident was occurred. Though the auto was overloaded with passengers at the time of accident. Though Rw.1 contended that the petition is bad for non-joinder of necessary parties as the owner and driver of the auto were not made as parties but the accident occurred due to rash and negligent driving of the lorry, as such the owner and driver of the auto are not necessary parties. Moreover, deceased was 3rd party. Hence, the said contention is rejected. Accordingly the point is answered.

12. <u>ISSUE NO.2:</u>

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

12.1. Now it has to be decided as to what is the quantum of compensation.

PW.1 who is son of the deceased deposed that the deceased Thodasam Kamalabai was aged 40 years and she was agriculture and coolie works and earning Rs.10,000/- per month as on the date of her death and the deceased was hale and healthy person, if she alive there is scope of enhancement of income i.e. future prospects, due to sudden death of the deceased the petitioners totally deprived of future earnings of the deceased besides love and affection and dependency and loss of consortium to the petitioners and they were purely depended on the income of the deceased and the education and marriage of the petitioners purely depend on the deceased and due to death of deceased their future became miserable and they suffered physically, mentally and financially and prayed to grant of compensation of Rs.8,00,000/-. But, PW.1 not filed any documentary evidence before the Court that deceased was doing agriculture and coolie works and also she was aged 35 years. But, as per the Ex.A2 Certified copy of Inquest panchanama deceased age was mentioned as 40 yrs. and Ex.A3 Certified copy of P.M.E. deceased age was mentioned as 40 yrs. and Ex.A4 charge sheet deceased age was mentioned as 35 yrs. old as on date of the accident. Moreover, in the petitioner and Pw.1 in his evidence deposed that the deceased was aged was 40 yrs as on date of the accident. Hence, this court taking into consideration of the evidence of Pw.1 and Ex.A2 Inquest panchanama it is proved that the deceased was aged 40 years.

12.2. Further, PW.1 not filed any documentary evidence that the deceased was doing agriculture and coolie works at the time of her death. But, in Ex.A2 certified copy of Inquest the deceased occupation was mentioned as agriculture. Moreover, in a rural areas generally women apart from attending house hold work they also attend the agriculture work considering the same though, the petitioners not filed any documentary evidence regarding agriculture coolie work but this Court considered the evidence of the PW.1 that the deceased apart from attending house hold work she also attend the agriculture work. Hence, this Court treated the deceased house wife as well as an agriculturist. The counsel for respondents argued that the petitioner was already filed O.P. No.301 of 2015 before the Hon’ble VIII Addl. District Judge at Nizamabad for the same relief, now again filed this petition before this Court, hence liable to be dismissed. But the Petitioner counsel filed a memo for said O.P. was dismissed for default.

12.3. *The Hon’ble Supreme Court of India held in Judgment between Kirti and Anr. Etc. vs Oriental Insurance Company Ltd, dt 05. 01.2021 in CIVIL APPEAL NO.1920 OF 2021 held in para No. 4, 5, 6, 16, 21, 22, 23, 25, 26 as under:*

4. The Court often follows different principles for determining the compensation towards a nonearning victim in order to arrive at an amount which would be just in the facts and circumstances of the case. Some of these involve the determination of notional income. Whenever notional income is determined in such cases, different considerations and factors are taken into account. For instance, for students, the Court often considers the course that they are studying, their academic proficiency, the family background, etc., to determine and fix what they could earn in the future. [See M. R. Krishna Murthi v. New India Assurance Co. Ltd., 2019 SCC OnLine SC 315]

5. One category of nonearning victims that Courts are often called upon to calculate the compensation for are homemakers. The granting of compensation for homemakers on a pecuniary basis, as in the present case, has been considered by this Court earlier on numerous occasions. A threeJudge Bench of this Court in Lata Wadhwa v. State of Bihar, (2001) 8 SCC 197, while dealing with compensation for the victims of a fire during a function, granted compensation to housewives on the basis of the services rendered by them in the house, and their age. This Court, in that case, held as follows:

“10. So far as the deceased housewives are concerned, in the absence of any data and as the housewives were not earning any income, attempt has been made to determine the compensation on the basis of services rendered by them to the house. On the basis of the age group of the housewives, appropriate multiplier has been applied, but the estimation of the value of services rendered to the house by the housewives, which has been arrived at Rs 12,000 per annum in cases of some and Rs 10,000 for others, appears to us to be grossly low. It is true that the claimants, who ought to have given data for determination of compensation, did not assist in any manner by providing the data for estimating the value of services rendered by such housewives. But even in the absence of such data and taking into consideration the multifarious services rendered by the housewives for managing the entire family, even on a modest estimation, should be Rs 3000 per month and Rs 36,000 per annum…" (emphasis supplied)

6. In Arun Kumar Agrawal v. National Insurance Co. Ltd., (2010) 9 SCC 218, this Court, while dealing with the grant of compensation for the death of a housewife due to a motor vehicle accident, held as follows:

"26. In India the courts have recognised that the contribution made by the wife to the house is invaluable and cannot be computed in terms of money. The gratuitous services rendered by the wife with true love and affection to the children and her husband and managing the household affairs cannot be equated with the services rendered by others. A wife/mother does not work by the clock. She is in the constant attendance of the family throughout the day and night unless she is employed and is required to attend the employer's work for particular hours. She takes care of all the requirements of the husband and children including cooking of food, washing of clothes, etc. She teaches small children and provides invaluable guidance to them for their future life. A housekeeper or maidservant can do the household work, such as cooking food, washing clothes and utensils, keeping the house clean, etc., but she can never be a substitute for a wife/mother who renders selfless service to her husband and children.

27. It is not possible to quantify any amount in lieu of the services rendered by the wife/mother to the family i.e. the husband and children. However, for the purpose of award of compensation to the dependants, some pecuniary estimate has to be made of the services of the housewife/mother. In that context, the term "services" is required to be given a broad meaning and must be construed by taking into account the loss of personal care and attention given by the deceased to her children as a mother and to her husband as a wife. They are entitled to adequate compensation in lieu of the loss of gratuitous services rendered by the deceased. The amount payable to the dependants cannot be diminished on the ground that some close relation like a grandmother may volunteer to render some of the services to the family which the deceased was giving earlier." (emphasis supplied) The above pronouncement has been followed by this Court in its recent judgment in Rajendra Singh v. National Insurance Co. Ltd., 2020 SCC OnLine SC 521, wherein the notional income of a deceased housewife was calculated for the purposes of

granting compensation in a motor accident case.

16. Returning to the question of how such notional income of a homemaker is to be calculated, there can be no fixed approach. It is to be understood that in such cases the attempt by the Court is to fix an approximate economic value for all the work that a homemaker does, impossible though that task may be. Courts must keep in mind the idea of awarding just compensation in such cases, looking to the facts and circumstances [See R.K. Malik v. Kiran Pal, (2009) 14 SCC 1].

21. Once notional income has been determined the question remains as to whether escalation for future prospects should be granted with regard to it. Initially, the awarding of future prospect by this Court was related to the stability of the job held by the victim [See General Manager, Kerala State Road Transport Corporation, Trivandrum v. Susamma Thomas (Mrs), (1994) 2 SCC 176; Sarla Dixit (Smt) v. Balwant Yadav, (1996) 3 SCC 179]. This focus on the stability of the job of the victim, while awarding future prospects, was continued in the judgment of this Court in Sarla Verma (Smt) v. Delhi Transport Corporation, (2009) 6 SCC 121 wherein the Court held as follows:

"24. In Susamma Thomas [(1994) 2 SCC 176] this Court increased the income by nearly 100%, in Sarla Dixit [(1996) 3 SCC 179] the income was increased only by 50% and in Abati Bezbaruah [(2003) 3 SCC 148] the income was increased by a mere 7%. In view of the imponderables and uncertainties, we are in favour of adopting as a rule of thumb, an addition of 50% of actual salary to the actual salary income of the deceased towards future prospects, where the deceased had a permanent job and was below 40 years. (Where the annual income is in the taxable range, the words "actual salary" should be read as "actual salary less tax"). The addition should be only 30% if the age of the deceased was 40 to 50 years. There should be no addition, where the age of the deceased is more than 50 years.

Though the evidence may indicate a different percentage of increase, it is necessary to standardise the addition to avoid different yardsticks being applied or different methods of calculation being adopted. Where the deceased was selfemployed or was on a fixed salary (without provision for annual increments, etc.), the courts will usually take only the actual income at the time of death. A departure therefrom should be made only in rare and exceptional cases involving special circumstances.” (emphasis supplied)

22. However, there was a shift in jurisprudence regarding future prospects with the fiveJudge Bench decision of this Court in Pranay Sethi (supra). This Court extended the benefit regarding future prospects to even selfemployed persons, or those on a fixed salary. The Court held as follows:

“57. Having bestowed our anxious consideration, we are disposed to think when we accept the principle of standardisation, there is really no rationale not to apply the said principle to the selfemployed or a person who is on a fixed salary. To follow the doctrine of actual income at the time of death and not to add any amount with regard to future prospects to the income for the purpose of determination of multiplicand would be unjust. 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 Act. In case of a deceased who had held a permanent job with inbuilt grant of annual increment, there is an acceptable certainty. But to state that the legal representatives of a deceased who was on a fixed salary would not be entitled to the benefit of future prospects for the purpose of computation of compensation would be inapposite. It is because the criterion of distinction between the two in that event would be certainty on the one hand and staticness on the other. One may perceive that the comparative measure is certainty on the one hand and uncertainty on the other but such a perception is fallacious. It is because the price rise does affect a self employed person; and that apart there is always an incessant effort to enhance one's income for sustenance. The purchasing capacity of a salaried person on permanent job when increases because of grant of increments and pay revision or for some other change in service conditions, there is always a competing attitude in the private sector to enhance the salary to get better efficiency from the employees. Similarly, a person who is selfemployed is bound to garner his resources and raise his charges/fees so that he can live with same facilities....Taking into consideration the cumulative factors, namely, passage of time, the changing society, escalation of price, the change in price index, the human attitude to follow a particular pattern of life, etc., an addition of 40% of the established income of the deceased towards future prospects and where the deceased was below 40 years an addition of 25% where the deceased was between the age of 40 to 50 years would be reasonable.” (emphasis supplied)

23. The rationale behind the awarding of future prospects is therefore no longer merely about the type of profession, whether permanent or otherwise, although the percentage awarded is still dependent on the same. The awarding of future prospects is now a part of the duty of the Court to grant just compensation, taking into account the realities of life, particularly of inflation, the quest of individuals to better their circumstances and those of their loved ones, rising wage rates and the impact of experience on the quality of work.

25. When it comes to the second category of cases, relating to notional income for nonearning victims, it is my opinion that the above principle applies with equal vigor, particularly with respect to homemakers. Once notional income is determined, the effects of inflation would equally apply. Further, no one would ever say that the improvements in skills that come with experience do not take place in the domain of work within the household. It is worth noting that, although not extensively discussed, this Court has been granting future prospects even in cases pertaining to notional income, as has been highlighted by my learned brother, Surya Kant, J., in his opinion [Hem Raj v. Oriental Insurance Company Limited, (2018) 15 SCC 654; Sunita Tokas v. New India Insurance Co. Ltd., (2019) 20 SCC 688].

26. Therefore, on the basis of the above, certain general observations can be made regarding the issue of calculation of notional income for homemakers and the grant of future prospects with respect to them, for the purposes of grant of compensation which can be summarized as follows:

a. Grant of compensation, on a pecuniary basis, with respect to a homemaker, is a settled proposition of law.

b. Taking into account the gendered nature of housework, with an overwhelming percentage of women being engaged in the same as compared to men, the fixing of notional income of a homemaker attains special significance. It becomes a recognition of the work, labour and sacrifices of homemakers and a reflection of changing attitudes. It is also in furtherance of our nation's international law obligations and our constitutional vision of social equality and ensuring dignity to all.

c. Various methods can be employed by the Court to fix the notional income of a homemaker, depending on the facts and circumstances of the case.

d. The Court should ensure while choosing the method, and fixing the notional income, that the same is just in the facts and circumstances of the particular case, neither assessing the compensation too conservatively, nor too liberally.

e. The granting of future prospects, on the notional income calculated in such cases, is a component of just compensation.

12.4. Considering the facts and circumstances of the case, this Court taking income of the deceased notionally @ Rs.6,000/- per month. As per the above said Judgment, para Nos.21, 22, 23, 25 and 26, the deceased was 40 years, hence, 25% of income of the deceased taken into consideration towards future prospects.

13. As per Judgment of Hon'ble Supreme Court in **Sarala Varma and others Vs. Delhi Transport Corporation and another** **in Civil Appeal No.3483 of 2008 (Arising out of SLP (C) No.8648 of 2007, dt: 15.04.2008,** in this case the deceased was aged 40 years therefore, the relevant multiplier is 15.

38. As per the Judgment of **Hon'ble Supreme Court in Magma General Insurance Company Limited Vs.**

Nanu Ram Alias Chuhru Ram and others, Civil Appeal No. 9581 of 2018 (Arising out of SLP (Civil No. 3192 of 2018) Judgment dt:18.09.2018 wherein in para No.8.7 held that

8.7 A Constitution Bench of this Court in Pranay Sethi (supra) dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is Loss of Consortium. In legal parlance,"consortium" is a compendious term which encompasses 'spousal consortium', 'parental consortium', and 'filial consortium'.

The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse.

3 Spousal consortium is generally defined as rights pertaining to the relationship of a husband wife which allows compensation to the surviving spouse for loss of "company, society, co operation, affection, and aid of the other in every conjugal relation."4 Parental consortium is granted to the child upon the premature death of a parent, for loss of "parental aid, protection, affection, society, discipline, guidance and training." Filial consortium is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to the death of a child causes great shock and agony to the parents and 3 Rajesh and Ors. vs. Rajbir Singh and Ors. (2013) 9 SCC 54 4 BLACK'S LAW DICTIONARY (5th ed. 1979) family of the deceased. The greatest agony for a parent is to lose their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit.

Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions worldover have recognized that the value of a child's consortium far exceeds the economic value of the compensation awarded in the case of the death of a child. Most jurisdictions therefore permit parents to be awarded compensation under loss of consortium on the death of a child. The amount awarded to the parents is a compensation for loss of the love, affection, care and companionship of the deceased child.

The Motor Vehicles Act is a beneficial legislation aimed at providing relief to the victims or their families, in cases of genuine claims. In case where a parent has lost their minor child, or unmarried son or daughter, the parents are entitled to be awarded loss of consortium under the head of Filial Consortium.

Parental Consortium is awarded to children who lose their parents in motor vehicle accidents under the Act.

A few High Courts have awarded compensation on this count5. However, there was no clarity with 5 Rajasthan High Court in Jagmala Ram @ Jagmal Singh & Ors. v. Sohi Ram & Ors 2017 (4) RLW 3368 (Raj); Uttarakhand High Court in Smt. Rita Rana & Anr. v. Pradeep Kumar & 6 Ors. respect to the principles on which compensation could be awarded on loss of Filial Consortium. The amount of compensation to be awarded as consortium will be governed by the principles of awarding compensation under 'Loss of Consortium' as laid down in Pranay Sethi (supra). In the present case, we deem it appropriate to award the father and the sister of the deceased, an amount of Rs. 40,000 each for loss of Filial Consortium.

14. In this case, the petition filed by the husband and children of the deceased i.e. Petitioner No.1 is husband, Petitioner No.2 to 6 are children, there are total six petitioners.

15. As per Judgment of Hon'ble Supreme Court in Sarala Varma and others Vs. Delhi Transport Corporation and another in Civil Appeal No.3483 of 2008 (Arising out of SLP (C) No.8648 of 2007, dt: 15.04.2008**,** where the number of dependents family members is 4 to 6 there is deduction towards personal and living expenditures should be 1/4th. In this case dependents family members is five members i.e., petitioner Nos.2 to 6. The Petitioner No.1 is the husband of the deceased, he cannot be treated as dependant. Hence, 1/4th of income of deceased deducted towards personal and living expenditures of deceased.

16. In the light of the above mentioned discussion, the petitioner No.1 to 6 are entitled to the following amounts:-

Head		**Compensation awarded.**
i.	Income:	Rs.72,000/- per annum(Rs. 6,000/- P.M.)
ii.	Future Prospects:	Rs.18,000/- (i.e.,25% of the income).

iii. Deduction towards Personal Expenditure: Rs.33,600 /- i.e.,1/4th of Rs.90,000/-). (72,000+ 18,000)

iv. Total income: Rs.67,500/- (i.e., 2/3rd of Rs. 90,000/-).

v. Multiplier: 15.

vi. Loss of future income: Rs.10,12,500/- (Rs.67,500 x15).

vii. Funeral expenses: Rs.15,000/-

viii. Spouse consortium : Rs.40,000/- to petitioner No.1.

ix) Parental consortium: Rs. 40,000X5 (each 40,000/- to the petitioner Nos.2 to 5 who are children of the deceased)

ix. Loss of estate: Rs.15,000/-

x. Total compensation award Total: Rs. 12,82,500/-.

17. But, in this case there was contributory negligence on the part of the deceased because at the time of accident there were Nine passengers and driver were travelling in the auto and it was over loaded. Hence, the contributory negligence on the part of the deceased considered at 25%. Hence, after deducting the 25% out of the Rs.12,82,500/-, the petitioners are entitled to Rs.9,61,875/-. Hence the total compensation awarded to the petitioners is Rs. 9,61,875/-(Rupees Nine Lakhs eighteen thousand and Nine hundred only).

18. In this case, as per the Ex.A4 the respondent No.1 was charged for the offence under Section 181 of M.V. Act that he was not possess the driving license as on the date of the accident. Rw.1 also deposed that respondent No.1 the driver of the lorry not having Driving License and respondent No.2 knowingly willfully handed over the possession of his vehicle to the respondent No.1 who was not having valid license, thereby committed fundamental breach of the contract. In the cross examination Rw.1 deposed that they have not issued any notice to the Rw.1 to produce his Driving License on that he deposed that the M.V.I. /R.T.O., Nirmal inspected the crime vehicle and issued vehicle check report and imposed penalty of Rs.5,000/- on respondent No.2 and respondent No.2 paid the said penalty but Rw.1 not filed the said receipt to that effect that the R.T.O. imposed penalty and also not filed M.V.I. instructions report. The respondent No.4 also got examined Mohd. Ilyas as Rw.2 who is Senior Assisant in the office of the District Transport Office, Kamareddy, he deposed that he has brought true extract of the Driving License of the respondent No.1 and Ex.B4 of the license bearing No.2842/NZB/2000 and as per Ex.B4 Driving License of the respondent No.4 the Rw.1 can drive M.C.W.G., L.M.V. Driving License valid from 16/05/2002 to 15/05/2020 and further respondent No.1 also authorized to drive the transport vehicle from 20/03/2002 to 19/03/2005 thereafter it was renewed on 21/07/2006 and valid upto 20/07/2009 and again renewed on 25/10/2011 and valid upto 24/10/2014 thereafter it was renewed again on 31/01/2015 and valid upto 30/01/2018 and he further deposed that as on date of the accident i.e. 09/01/2015 the transport lincese of the respondent No.1 was not valid and it was not renewed by the Respondent NO.1 as such he had no transport lincese as on date of the accident and only L.M.V. Non transport Driving License was valid and the offending lorry is a goods vehicle H.M.V. and one can drive if he has transport or H.G.V or H.M.V. Driving License. In the cross examination Rw.2 admitted that after expiry of the license period there is a grace period of one month, and on the said grace period one can renew the license after expiry, but renewed lincese valid from date of renewal only and he admitted that the license of

Respondent No.1 not cancelled during the period of 09.01.2015 to 31.01.2015. He denied suggestion that as the license of the respondent No.1 was not cancelled, as such it is deemed to be valid license as on the date of the accident. Ex.A5 is Photostat copy of R.C. of the offending lorry No. AP.25.T.3497. In the evidence of Rw.1 Ex.B1 Insurance policy of the offending vehicle was marked. Ex.B2 is the Photostat copy of the R.C. of the offending vehicle. As per Ex.B2 and Ex.A5 respondent No.2 is the owner of the offending vehicle. In the cross examination Rw.1 admitted that as on date of the accident the Ex.B1 insurance policy was in force. As per Ex.B1 the policy issued to the offending vehicle by the Respondent No.3 and is valid from 21/11/2014 to 20/11/2015 and the accident occurred on 09/01/2015. Hence, as on date of the accident the insurance policy issued by respondent No.3 was in force for the offending vehicle. Therefore, as per evidence of Rw.1 and Rw.2 and coupled with Ex.B4 the transport license of respondent No.1 was renewed on 25/10/2011 and valid upto 24/10/2014 and thereafter it was renewed on 31/01/2015 and valid upto 30/01/2018. In this case the accident occurred on 09/01/2015, therefore as on date of the accident the transport license of respondent No.1 was expired but L.M.V. License was in force.

19. The Hon'ble Supreme Court of India Judgment in Shamanna Vs. the Divisional Manager, the Oriental Insurance Company Ltd. in Civil Appeal No. 8144 of 2018 (arising out of SLP(C)No.26955 of 2017) Judgment dated 08/08/2018 in Para Nos. 3 to 8 held as under:

> 3. On 14.04.2008, Shankareppa Pattar son of the Signature Not Verified Digitally signed by MADHU BALA Date: 2018.08.08 17:08:30 IST appellants/claimants was travelling in a jeep bearing Reg.No.KA- Reason:
>
> 22/M-3805. The jeep was driven negligently due to which door of the jeep suddenly opened and Shankareppa was thrown out of the vehicle and sustained grievous injuries and died in the hospital. In the claim petition filed by the appellants/parents of the deceased Shankareppa, the Tribunal awarded compensation of Rs.3,55,500/- with interest at 6% per annum from the date of claim petition till realisation. Since the driver of the jeep had no valid driving licence at the time of the accident and since there was violation of the terms of the insurance policy, the Tribunal directed the insurance company to pay the compensation to the claimants and granted liberty to the insurance company to recover the same from the owner of the offending vehicle.
>
> 4. Being aggrieved by the award directing the insurer to pay the compensation amount to the claimants and recover the same from the owner of the vehicle, the insurance company filed appeal before the High Court. The claimants have also filed appeal seeking enhancement of compensation. The High Court referred to its own judgment in the case of Oriental Insurance Co. Ltd. v. K.C. Subramanyam MANU/KA/0945/2012 : ILR 2012 KAR 5241 and held that the Supreme Court directed the insurance company to make payment to the claimants and to recover the same from the owner of the vehicle in exercise of its discretionary power under Article 142

of the Constitution of India. The High Court observed that power under Article 142 of the Constitution is vested only with the Supreme Court and such power is not vested with the High Court or the Tribunal and set aside the award passed by the Tribunal directing the insurance company to pay compensation to the claimants and recover the same from the owner of the vehicle is not sustainable. The High Court held that only the owner of the offending vehicle is liable to make the payment of the compensation amount awarded by the Tribunal. The High Court has enhanced the compensation awarded by the Tribunal from Rs.3,55,500/- to Rs.4,94,700/-. To determine the loss of dependency, the High Court has taken into consideration the age of the deceased Shankareppa and has adopted multiplier of '18' instead of multiplier of '14'. Being aggrieved by the judgment of the High Court setting aside the direction to the insurance company to "pay and recover", the appellants/ claimants have preferred this appeal.

5. We have heard the learned counsel for the parties. We have gone through the impugned judgment and perused the materials placed on record.

6. In the case of third party risks, as per the decision in National Insurance Company Ltd. v. Swaran Singh and others (2004) 3 SCC 297, the insurer had to indemnify the compensation amount payable to the third party and the insurance company may recover the same from the insured. Doctrine of "pay and recover" was considered by the Supreme Court in Swaran Singh case wherein the Supreme Court examined the liability of the insurance company in cases of breach of policy condition due to disqualifications of the driver or invalid driving licence of the driver and held that in case of third party risks, the insurer has to indemnify the compensation amount to the third party and the insurance company may recover the same from the insured. Elaborately considering the insurer's contractual liability as well as statutory liability vis-a-vis the claims of third parties, the Supreme Court issued detailed guidelines as to how and in what circumstances, "pay and recover" can be ordered. In para (110), the Supreme Court summarised its conclusions as under:-

“110. The summary of our findings to the various issues as raised in these petitions is as follows:
(i) Chapter XI of the Motor Vehicles Act, 1988 providing compulsory insurance of vehicles against third-party risks is a social welfare legislation to extend relief by compensation to victims of accidents caused by use of motor vehicles. The provisions of compulsory insurance coverage of all vehicles are with this paramount object and the provisions of the Act have to be so interpreted as to effectuate the said object.
(ii) An insurer is entitled to raise a defence in a claim petition filed under Section 163-A or Section 166 of the Motor Vehicles Act, 1988, inter alia, in terms of Section 149(2)(a)(ii) of the said Act.

(iii) The breach of policy condition e.g. disqualification of the driver or invalid driving licence of the driver, as contained in sub-section (2)(a)(ii) of Section 149, has to be proved to have been committed by the insured for avoiding liability by the insurer. Mere absence, fake or invalid driving licence or disqualification of the driver for driving at the relevant time, are not in themselves defences available to the insurer against either the insured or the third parties. To avoid its liability towards the insured, the insurer has to prove that the insured was guilty of negligence and failed to exercise reasonable care in the matter of fulfilling the condition of the policy regarding use of vehicles by a duly licensed driver or one who was not disqualified to drive at the relevant time.

(iv) Insurance companies, however, with a view to avoid their liability must not only establish the available defence(s) raised in the said proceedings but must also establish "breach" on the part of the owner of the vehicle; the burden of proof wherefore would be on them, (v) The court cannot lay down any criteria as to how the said burden would be discharged, inasmuch as the same would depend upon the facts and circumstances of each case.

(vi) Even where the insurer is able to prove breach on the part of the insured concerning the policy condition regarding holding of a valid licence by the driver or his qualification to drive during the relevant period, the insurer would not be allowed to avoid its liability towards the insured unless the said breach or breaches on the condition of driving licence is/are so fundamental as are found to have contributed to the cause of the accident. The Tribunals in interpreting the policy conditions would apply "the rule of main purpose" and the concept of "fundamental breach" to allow defences available to the insurer under Section 149(2) of the Act.

(vii) The question, as to whether the owner has taken reasonable care to find out as to whether the driving licence produced by the driver (a fake one or otherwise), does not fulfill the requirements of law or not will have to be determined in each case.

(viii) If a vehicle at the time of accident was driven by a person having a learner's licence, the insurance companies would be liable to satisfy the decree.

(ix) The Claims Tribunal constituted under Section 165 read with Section 168 is empowered to adjudicate all claims in respect of the accidents involving death or of bodily injury or damage to property of third party arising in use of motor vehicle. The said power of the Tribunal is not restricted to decide the claims inter se between claimant or claimants on one side and insured, insurer and driver on the other. In the course of adjudicating the claim for compensation and to decide the availability of defence or defences to the insurer, the Tribunal has necessarily the power and jurisdiction to decide disputes inter se between the insurer and the insured. The decision rendered on the claims and disputes inter se between the insurer and insured in the course of adjudication of claim for compensation by the claimants and the award made thereon is enforceable and executable in the same manner as provided in Section 174 of the Act for enforcement and execution of the award in favour of the claimants.

(x) Where on adjudication of the claim under the Act the Tribunal arrives at a conclusion that the insurer has satisfactorily proved its defence in accordance with the provisions of Section 149(2) read with sub-section (7), as interpreted by this Court above, the Tribunal can direct that the insurer is liable to be reimbursed by the insured for the compensation and other amounts which it has been compelled to pay to the third party under the award of the Tribunal. Such determination of claim by the Tribunal will be enforceable and the money found due to the insurer from the insured will be recoverable on a certificate issued by the Tribunal to the Collector in the same manner under Section 174 of the Act as arrears of land revenue. The certificate will be issued for the recovery as arrears of land revenue only if, as required by sub-section (3) of Section 168 of the Act the insured fails to deposit the amount awarded in favour of the insurer within thirty days from the date of announcement of the award by the Tribunal.

(xi) The provisions contained in sub-section (4) with the proviso there under and sub-section (5) which are intended to cover specified contingencies mentioned therein to enable the insurer to recover the amount paid under the contract of insurance on behalf of the insured can be taken recourse to by the Tribunal and be extended to claims and defences of the insurer against the insured by relegating them to the remedy before regular court in cases where on given facts and circumstances adjudication of their claims inter se might delay the adjudication of the claims of the victims," (Underlining added)

7. As per the decision in Swaran Singh case, onus is always upon the insurance company to prove that the driver had no valid driving licence and that there was breach of policy conditions. Where the driver did not possess the valid driving licence and there are breach of policy conditions, "pay and recover" can be ordered in case of third party risks. The Tribunal is required to consider as to whether the owner has taken reasonable care to find out as to whether the driving licence produced by the driver, does not fulfill the requirements of law or not will have to be determined in each case.

8. The Supreme Court considered the decision of Swaran Singh case in subsequent decision in National Insurance Co. Ltd. v. Laxmi Narain Dhut, (2007) 3 SCC 700, wherein this Court held that "the decision in Swaran Singh case has no application to cases other than third party risks and in case of third party risks the insurer has to indemnify the amount and if so advised, to recover the same from the insured". The same princi-

ple was reiterated in Prem Kumari v. Prahlad Dev and others (2008) 3 SCC 193.

20. The Hon'ble Supreme Court of Indian in Singh Ram vs. Nirmala And ors. In Civil Appeal No.2103 of 2918 (arising out of SLP(C) no.22630 of 2015) Judgment dt. 06/03/2018 in Para Nos.7 and 9 held as under :

7 In Swaran Singh (supra), this Court held that the holder of a driving licence has a period of thirty days on its expiry, to renew it:

"45. Thus, a person whose licence is ordinarily renewed in terms of the Motor Vehicles Act and the Rules framed thereunder, despite the fact that during the interregnum period, namely, when the accident took place and the date of expiry of the licence, he did not have a valid licence, he could during the prescribed period apply for renewal thereof and could obtain the same automatically without undergoing any further test or without having been declared unqualified therefor. Proviso appended to Section 14 in unequivocal terms states that the licence remains valid for a period of thirty days from the day of its expiry.

46. Section 15 of the Act does not empower the authorities to reject an application for renewal only on the ground that there is a break in validity or tenure of the driving licence has lapsed, as in the meantime the provisions for disqualification of the driver contained in Sections 19, 20, 21, 22, 23 and 24 will not be attracted, would indisputably confer a right upon the person to get his driving licence renewed. In that view of the matter, he cannot be said to be delicensed and the same shall remain valid for a period of thirty days after its expiry." The following conclusion has been recorded in summation in the judgment::

"(iii) The breach of policy condition e.g. disqualification of the driver or invalid driving licence of the driver, as contained in sub-section (2)(a)(ii) of Section 149, has to be proved to have been committed by the insured for avoiding liability by the insurer. Mere absence, fake or

invalid driving licence or disqualification of the driver for driving at the relevant time, are not in themselves defences available to the insurer against either the insured or the third parties. To avoid its liability towards the insured, the insurer has to prove that the insured was guilty of negligence and failed to exercise reasonable care in the matter of fulfilling the condition of the policy regarding use of vehicles by a duly licensed driver or one who was not disqualified to drive at the relevant time.
(iv) Insurance companies, however, with a view to avoid their liability must not only establish the available defence(s) raised in the said proceedings but must also establish "breach" on the part of the owner of the vehicle; the burden of proof wherefor would be on them.
(v) The court cannot lay down any criteria as to how the said burden would be discharged, inasmuch as the same would depend upon the facts and circumstances of each case.
(vi) Even where the insurer is able to prove breach on the part of the insured concerning the policy condition regarding holding of a valid licence by the driver or his qualification to drive during the relevant period, the insurer would not be allowed to avoid its liability towards the insured unless the said breach or breaches on the condition of driving licence is/are so fundamental as are found to have contributed to the cause of the accident. The Tribunals in interpreting the policy conditions would apply "the rule of main purpose" and the concept of "fundamental breach" to allow defences available to the insurer under Section 149(2) of the Act.
(vii) The question, as to whether the owner has taken reasonable care to find out as to whether the driving licence produced by the driver (a fake one or otherwise), does not fulfil the requirements of law or not will have to be determined in each case".

8 In the present case it is necessary to note, as observed by the Tribunal, that the owner did not depose in evidence and stayed away from the witness box. He produced a licence which was found to be fake. Another licence which he sought to produce had already expired before the accident and was not renewed within the prescribed period. It was renewed well after two years had expired. The appellant as owner had evidently failed to take reasonable care (proposition (vii) of Swaran Singh)

since he could not have been unmindful of facts which were within his knowledge.

9 In the circumstances, the direction by the Tribunal, confirmed by the High Court, to pay and recover cannot be faulted. The appeal is, accordingly, dismissed. There shall be no order as to costs.

21. Therefore, as per the above said judgments of Hon'ble Supreme Court of India, there is breach of conditions of the Driving License pay and recovery can be ordered. Hence, in this case the insurance company/respondent No.4 after paying the compensation to the petitioners it can recover the same from the owner of the offending vehicle. In this case, owner of the offending vehicle i.e. lorry/respondent No.2 bearing No.AP.25.T.3497 was died and respondent No.3 is the wife of the respondent No.2. Hence, respondent No.4 is entitled to recovery of the compensation against the estate of the deceased respondent No.2 in the hands of the respondent No.3. Accordingly the petition is allowed granting compensation.

22. Accordingly, this Tribunal holds that the petitioners are entitled total compensation award of Rs.9,61,875/- (Rupees Nine Lakhs sixty one thousand and Eight hundred and seventy five only) along with proportionate costs and interest @ 7.5%

per annum from the date of filing of claim petition till payment. Therefore, the respondents No.1, 3 & 4 are jointly and severally liable to pay compensation to the petitioners with proportionate costs. The liability of respondent No.3 to pay compensation is out of the estate of the respondent No.2. Accordingly, issue No.2 is answered.

23. IN THE RESULT, this petition is allowed awarding compensation of Rs.9,61,875/- (Rupees Nine Lakhs Sixty One thousand Eight hundred and Seventy Five only) to the petitioners with costs and interest at the rate of 7.5% per annum from the date of petition till date of deposit. The Respondents Nos.1, 3 & 4 are jointly and severally liable to pay the said compensation amount within two months from the date of this order. In default, the compensation amount carries interest at the rate of 12% per annum.

The respondent No.3 is directed to pay the compensation out of the estate of the Respondent No.2. The Respondents No.1, 3 and 4 are directed to deposit the said compensation amount within two months from today. However, the respondent No.4 being the Insurer is directed to deposit the compensation awarded and later the respondent No.4 is entitled to recover the same from the owner of the vehicle i.e. respondent No.3 i.e. from out of the Estate of the respondent No.2 in the hands of respondent No.3 since respondent No.2 violated the conditions of the Policy i.e. respondent No.2 allowed respondent No.1 to drive the offending vehicle who was not having valid driving license as on the date of the accident.

On such deposit, the petitioner No.1 who is husband of the deceased is awarded compensation of Rs.1,61,875/- (Rupees One Lakh Sixty One Thousand Eight Hundred and Seventy Five only) with proportionate costs and interest. Petitioners No.2 to 6 who are children of the deceased are awarded compensation of Rs.1,60,000/- (Rupees One Lakh Sixty Thousand only) each along with proportionate costs and interest.

Petitioners No.1 to 5 are permitted to withdraw their entire share amount along with proportionate costs and interest. Since the petitioner No.6 is minor, compensation awarded to him is ordered to be kept in Fixed Deposit in any Nationalised Bank till he attains majority.

The petitioners are directed to pay the Deficit Court Fee on the excess compensation amount awarded.

The Advocate Fee is fixed @ Rs.3,000/- (Rupees Three Thousand only)..

Typed to my dictation by the Stenographer, corrected and pronounced by me in the open Court on this the 22nd day of November, 2022.

Chairman, Motor Vehicle
Accidents Claims Tribunal-cum-
II Addl. District Judge, Adilabad.

APPENDIX OF EVIDENCE
WITNESSES EXAMINED

FOR PETITIONERS: **FOR RESPONDENTS.**

PW.1:	Thodsam Yashwanth Rao	RW.1:	D. Veera Krishna Prasad
PW.2:	Islavath Mohan	RW.2:	Mahammed Ilyaz

EXHIBITS MARKED

FOR PETITIONERS: **FOR RESPONDENTS:**

Ex.A1:	Certified copy of FIR with complain in Cr.No.03/2015 of P.S. Kaddam.	Ex.B1:	Attested Insurance Policy of offending vehicle.
Ex.A2:	Certified copy of Inquest Report.	Ex.B2:	Photocopy of R.C. of offending vehicle.
Ex.A3:	Certified copy of PME Report.	Ex.B3:	Authorisation Letter, dt. 30/07/2022 of R.T.A., Kama Reddy.
Ex.A4:	Certified copy of Charge sheet.	Ex.B4:	True extract of Driving License of Respondent No.1.
Ex.A5:	Photostat copy of Registration Certificate of		

	Lorry bearing No.AP-25-T-3497		
Ex.A6:	Photostat copy of Insurance Policy of Lorry bearing No. AP-25-T-3497		

Chairman, Motor Vehicle
Accidents Claims Tribunal-cum-
II Addl. District Judge, Adilabad.