

BEFORE THE CHAIRMAN, MOTOR ACCIDENT CLAIMS TRIBUNAL-CUM-V  
ADDITIONAL DISTRICT JUDGE, KHAMMAM.

Dated this the 28<sup>th</sup> day of February, 2025

**Present: VASUKULA SREENAIAH,**  
**Chairman, Motor Accident Claims Tribunal-cum-**  
**V Addl. District Judge, Khammam.**

**M.A.T.O.P. No. 423 OF 2022**

BETWEEN:

1. Kunusothu Vijay
2. Kunusothu Gyanasri  
(Claim Petitioner No.2 being minor Rep.by Claim Petitioner No.1 bein father  
and Natural guardian)

**... Claim Petitioners.**

**AND**

1. Koppiseti Veeravenkata Sai Chandrasekhar
2. The Depot Manager, APS RTC, Rajamundry (Urban), East Godavari District,  
A.P-533101
3. The Managing Director, APS RTC, Fst Floor, RTC House, NTR Administration  
Block, Pandit Nehru Bus Station, Vijayawada, A.P. - 520013

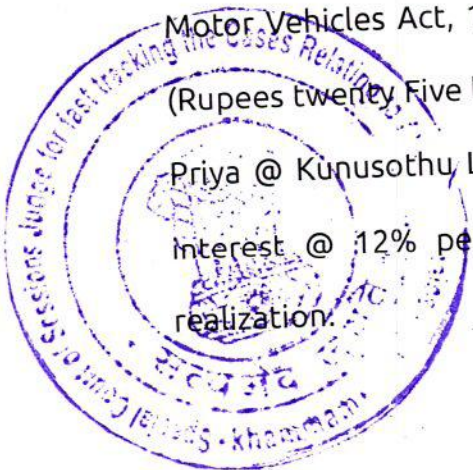
**... Respondents.**

This petition is coming before me on 21.2.2025 for final hearing in the presence of **Sri Yeginati Nageswar Rao**, Advocate for the Claim Petitioners; and that of **Sri N.Ramu**, Advocate for the Respondent No.2&3 and whereas respondent No.1 remained exparte; upon perusing the material papers on record, upon hearing the arguments of both sides and having stood over for consideration till this day, this Tribunal passed the following:

**:: ORDER ::**

1. This is a petition filed by the petitioners, under Section 166 of the Motor Vehicles Act, 1988 claiming compensation to a tune of Rs.25,00,000/- (Rupees twenty Five lakhs only) on account of death of deceased Bukya Laxmi Priya @ Kunusothu Laxmi Priya, in a fatal accident, together with costs and interest @ 12% per annum from the date of accident, till the date of realization.

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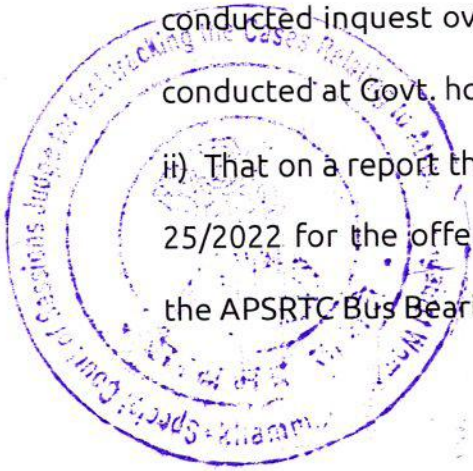


2. The averments in the petition in nutshell are, as follows:

(i) Claim petitioner No.1 is husband, claim petitioner No.2 is the daughter of deceased Bukya Laxmi Priya @ Kunusothu Laxmi Priya. On 30.01.2022 at morning hours Bukya Laxmi Priya @ Kunusothu Laxmi Priya i.e, deceased and her husband i.e., Claim Petitioner No.1 and her daughter i.e., Claim Petitioner No.2 were started from her village to purchase silver anklets (Vendi Pattilu) for her minor daughter at Aswaraopeta on her husband's Honda Shine motor cycle bearing No. TS 25 K 2983. When they reached to near Live Fish Shop at Vinayakapuram Village meantime one APSRTC Bus Bearing No. AP05Z5034 driven by its driver i.e., Respondent No.1 in a rash and negligent manner and came in wrong side and dashed the motor cycle from its front side and the Bus front tyre ran over the left hand side of the body of the said Bukya Laxmi Priya @ Kunusothu Laxmi Priya and dragged some distance. Due to that Bukya Laxmi Priya @ Kunusothu Laxmi Priya sustained severe blood injuries and died on the spot. The Claim petitioner No.1 and his daughter i.e., Claim petitioner No.2 fell down from the Motorcycle on other side and also sustained blood injuries. One Bukya Naresh, Auto driver who witnessed the accident and informed the same to relatives of Claim Petitioner No.1, P.S. Aswaraopeta conducted inquest over the dead body of the deceased and postmortem was conducted at Govt. hospital, Aswaraopeta.

ii) That on a report the Police, P.S. Aswaraopeta registered a case in Crime No. 25/2022 for the offence under sec. 304(A), 337 of I.P.C against the driver of the APSRTC Bus Bearing No. AP 05 Z-5034 i.e., Respondent No.1.

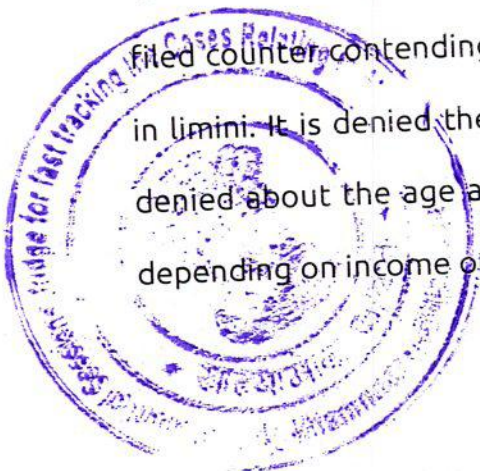
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iii) At the time of the accident, the deceased was 20 years old, hale, and healthy. She was a hardworking tailor who supported her family entirely through her earnings of ₹750 per day, sometimes exceeding ₹30,000 per month, especially during seasonal work. Her untimely demise has left the claim petitioners devastated. Claim petitioner No.1, her husband, lost his wife at a young age, while Claim petitioner No.2, her minor daughter, lost her mother in childhood, depriving them of love, affection, parental care, and financial security. The family's future is now uncertain, and they struggle to cope with the emotional and financial void left by her passing. If not for the accident, she would have continued supporting her family for at least another 45 years. The petitioners have been deeply affected, unable to engage in their livelihood, and must bear this irreparable loss for life. The 1<sup>st</sup> respondent is the driver and the 2<sup>nd</sup> & 3<sup>rd</sup> respondents are owner of the crime vehicle - RTC Bus bearing No. AP05Z5034 and as such both the respondents are jointly and severally liable to pay compensation, to the petitioners. Hence, the petition.

3. On receipt of notice, 1<sup>st</sup> respondent who is the driver of crime vehicle not appeared before the Tribunal, hence 1<sup>st</sup> respondent is remained as set ex-parte on 16.3.2023.

4. On receipt of notice, the 2<sup>nd</sup> and 3<sup>rd</sup> respondents has appeared and filed counter contending, inter alia, that the petition is liable to be dismissed in limini. It is denied the manner of accident as narrated in the petition. It is denied about the age and income of the deceased and claim petitioners are depending on income of deceased and further submitted that the accident oc-



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curred due to the sole negligence of the deceased rider of the motor cycle only, without taking care and caution and lost control on motor cycle, he himself and there was no negligence on the part of the alleged crime vehicle, as such the 2<sup>nd</sup> and 3<sup>rd</sup> respondents are not liable to pay the compensation. The claim of compensation of Rs.25,00,000/- is highly excessive and arbitrary and liable to be dismissed.

5. Basing on the pleadings of both sides the following issues have been settled for trial:

1. Whether accident occurred on 30.01.2022 at 10.30 hours, near live fish shop, Vinayakapuram village, due to rash and negligent driving of TSRTC bus No.AP05Z5034 by the 1<sup>st</sup> respondent?

2. Whether the Bhukya Lxmi Priya @Kunusothu Laxmi Priya received injuries in that accident and died because of the injuries?

3. Whether the petitioners are entitled to claim compensation? If so, to what amount and from which of the respondents?

4. To what relief?

6. During the course of trial, on behalf of the petitioners, PWs-1 and 2 were examined and A-1 to A-6 were exhibited. On behalf of the respondents, RW1 was examined and no documents were marked.

7. This Tribunal heard the arguments on both sides. The learned counsel for the respondent filed citations.

8. **ISSUE Nos.1 AND 2:** In the proceedings under the Motor Vehicles Act, 1998, the finding of negligence has to be recorded on preponderance of probabilities. Therefore, both petitioners and respondents must lead

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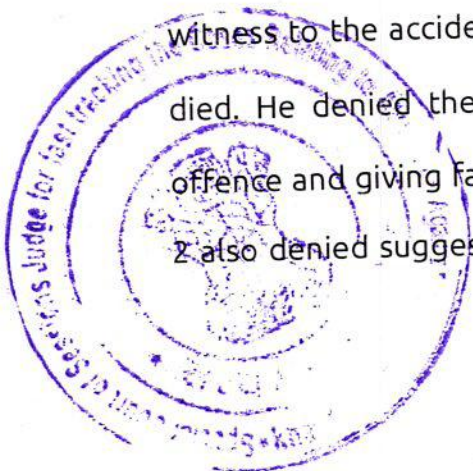
appropriate evidence in support of their claim. The general purport of the word "*res ipsa loquitur*" is that the accident "*speaks for itself*" or "*tells its own story*". The right of the victim in a road accident to claim compensation is a statutory one.

9. On behalf of the petitioners, the 1<sup>st</sup> petitioner who is husband of deceased Bukya Laxmi Priya examined himself as P.W.1 and he has filed an affidavit in lieu of his chief examination as contemplated under Order-XVIII, Rule-4 (1) of C.P.C. His evidence is nothing but replica of petition pleadings.

10. Admittedly, P.W-1 who is none other than husband of the deceased is the eyewitness to the occurrence of the accident. P.W-1 categorically stated that the accident was occurred due to rash and negligent act of driver of crime vehicle- TSRTC Bus bearing No.AP05Z5034. He denied the suggestion that there was no negligence on the part of the RTC driver and that the accident was occurred only because of the negligence on the part of him. Except vague assertion the respondents did not place any iota of evidence to show that the accident was occurred not due to negligent act of the driver of crime vehicle and that there was negligence on the part of the Pw.1 Further, this Tribunal finds no reasons to disbelieve the testimony of P.W-1.

11. Further, P.W.2 who is eye witness categorically stated that he was eye witness to the accident which occurred on 30.01.2022 in which the deceased died. He denied the suggestion that he was not present at the scene of offence and giving false evidence as deceased also belongs to his village. PW. 2 also denied suggestion of Respondents that at the time of accident he did

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not witness the same and he cannot remember the RTC bus number. This Tribunal finds no reasons to disbelieve the testimony of P.W-2.

12. On behalf of the respondent Nos.2&3, the respondent No.1 examined himself as R.W.1 and he has filed an affidavit in lieu of his chief examination as contemplated under Order-XVIII, Rule-4 (1) of C.P.C. His evidence is nothing but replica of respondent No.2&3 counter pleadings. He stated that the alleged accident was occurred due to the sole negligence on the part of the PW.1 and there is no rash and negligent driving on his part. To prove his contention, he did not file any document nor examine any witness. Hence this Tribunal finds the evidence of RW1 is not considered.

13. In **Bimla Devi & Others V. Himachal Road Transport Corporation & Others<sup>1</sup>**, **Kaushnumma Begum and others v/s New India Assurance Company Limited<sup>2</sup>** and in **National Insurance Co. Ltd. V. Pushpa Rana<sup>3</sup>**, it has been held that:

*"the negligence has to be decided on the touchstone of preponderance of probabilities and a holistic view is to be taken. It has been further held that the proceedings under the Motor Vehicles Act are not akin to the proceedings in a Civil Suit and hence, strict rules of evidence are not applicable".*

14. In **Sunitha and others V. Rajasthan State Road Transport Corporation and another<sup>4</sup>** Hon'ble Supreme Court held that:

*"it is settled that in motor vehicle accident claim cases, once the foundational fact, namely, the actual occurrence of the accident, has been established, the Tribunal's role*

<sup>1</sup> (2009) 13 SC 530

<sup>2</sup> 2001 ACJ 421 SC

<sup>3</sup> 2009 ACJ 287

<sup>4</sup> Civil Appeal No. 1665 of 2019 decided on 14.02.2019



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*would be to calculate the quantum of just compensation, if the accident had taken place by reason of negligence of the driver of motor vehicle and while doing so, the Tribunal would not be strictly bound by pleadings of the parties".*

15. It is pertinent to see that the petitioners have filed certified copies of First Information Report with complaint (Ex.A-1), Inquest Panchanama (Ex.A-2), Post-mortem Examination Report (Ex.A-3) Motor Vehicle Inspector Report (Ex.A4), Charge sheet (Ex.A5) and Crime details form (Ex.A6).

16. It is not in dispute that the police, Ashwaraopeta registered the case in crime No.25/2022 under Section 304-A, 337 of IPC and after completion of investigation, the Investigating Officer has filed charge sheet (Ex.A-5) for the offence under Section 304-A, 337 of IPC, against driver of Crime vehicle-RTC Bus bearing No.AP05Z5034 stating that the accident was occurred due to rash and negligent driving of the driver of the crime vehicle and dashed the PW.1 motorcycle, due to which the deceased died and the accident was not occurred due to any mechanical defects of crime vehicle, which is evident by certified copy of Motor Vehicle Inspector Report (Ex.A-4).

17. On scanning the material on record and in view of the citations referred supra, this Tribunal holds that the petitioners have established that the death of deceased-Bukya Laxmipriya, was on account of rash and negligent act on the part of the driver of the crime vehicle APSRTC bus bearing No. AP05Z5034. Accordingly, this issue is answered in favour of the petitioners and against the respondents.

**ISSUE No.3:**

18. The 1<sup>st</sup> petitioner is the husband, 2<sup>nd</sup> petitioner is daughter of the

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deceased-Bukya Laxmi Priya. They are claiming compensation of Rs.25,00,000/- (Rupees Twenty five lakhs only) along with future interest @ 12% per annum from the date of accident till date of realization, with costs.

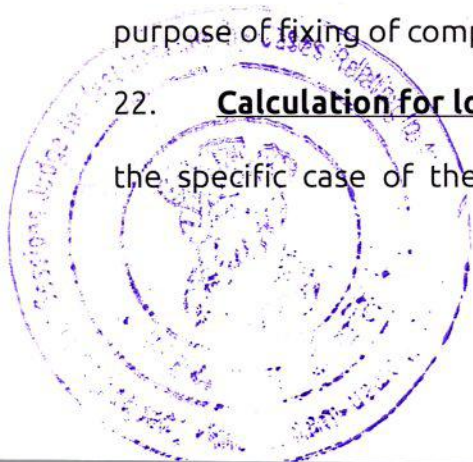
19. **Age and Income of the deceased:** According to the petitioners, the deceased was aged about 20 years as on the date of her death. As per the charge sheet/Ex.A.5 and post mortem examination report/Ex.A.3, the age of the deceased is mentioned as 20 years. Therefore, the age of the deceased was considered as 20 years as on the date of her death, for the purpose of fixing the compensation.

20. It is in the evidence of P.W-1, the deceased was working as tailor and she used to earn Rs.750/- per day. To prove her contention, the petitioners did not examine any witness not filed documents to show her income. There is no tangible evidence to show that the deceased was earning Rs. 750/- per day, and petitioner has not filed any documents to show the deceased was doing tailor work. The tribunal has to fix the notional monthly income of the deceased based on police records.

21. The CC of charge sheet/Ex.A5 clearly shows that the occupation of deceased as "tailor". Further considering the age of the deceased and the present wages, this tribunal has no hesitation to consider the notional income of the deceased is Rs.8000/- per month i.e., Rs. 96000/- per annum for the purpose of fixing of compensation.

22. **Calculation for loss of Dependency and Future Prospects:** It is the specific case of the petitioners that due to the sudden death of the

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deceased, they suffered a lot of mental agony and they lost love and affection of the deceased.

23. The income of deceased is considered above as Rs.96000/- per annum. On applying the principles as laid down in the case of **Sarala Verma V. DTC**<sup>5</sup> and **National Insurance Company Ltd., V. Pranay Sethi and others**,<sup>6</sup> since the deceased was aged about 20 years, 40% of the income has to be added to the income of the deceased towards future prospects of income, which comes to Rs.1,34,400/- per annum i.e., Rs.96000/- + 38400/- (Rs.96000/- x 40%).

24. Since the petitioners No.1 and 2 are dependents of the deceased, 1/3rd of income has to be deducted towards personal expenses i.e., Rs.44,800/- (Rs.1,34,400/- x 1/3). Then total income which comes to Rs.89,600/- and by applying the appropriate multiplier (18) taking into consideration the age of the deceased at the time of her death as per **Sarala Verma** and **Pranay Sethi** cases (*supra*), the total loss of dependency comes to Rs.16,12,800/- [Rs.89600/- x 18]. Therefore, the petitioners are entitled to claim Rs. 16,12,800/- under the head of loss of dependency and future prospects.

25. **Compensation for loss of consortium:-** The 1<sup>st</sup> petitioner being husband of the deceased is entitled for Rs.40,000/- towards loss of consortium.

26. **Compensation for loss of Parental consortium:** The 2<sup>nd</sup> daughter of the deceased is entitled for Rs.40000/- towards loss of love and affection of

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deceased as per the principles laid down in **M.Mansoor and another V. United India Insurance Co. Ltd.**<sup>7</sup>.

27. **Compensation for loss of Estate:** As per the principles laid down in case of **Kalpanaraj and others V. Tamilnadu State Transport Corporation**<sup>8</sup> and **National Insurance Company Ltd., V. Pranay Sethi and others** (*referred supra*), the petitioners are entitled for Rs.15,000/- towards loss of estate.

28. **Claim pertaining to the funeral expenses:** As per the principles laid down in **Rajesh and Others V. Rajbir Singh and others**<sup>9</sup> and **National Insurance Company Ltd., V. Pranay Sethi and others** (*referred supra*), the petitioners are entitled for Rs.15,000/- towards funeral expenses.

29. The petitioners are entitled for total compensation as under:

|    |                                     |   |                        |
|----|-------------------------------------|---|------------------------|
| 1. | Towards Loss of Dependency          | : | Rs. 16,12,800/-        |
| 2. | Towards Loss of Consortium          | : | Rs. 40,000/-           |
| 3. | Towards loss of Parental consortium | : | Rs. 40,000/-           |
| 4. | Towards Loss of Estate              | : | Rs. 15,000/-           |
| 5. | Towards Funeral Expenses            | : | Rs. 15,000/-           |
|    | <b>Total</b>                        | : | <b>Rs. 17,22,800/-</b> |

30. The claim petitioners are entitled to claim a total compensation of **Rs. Rs. 17,22,800/- (Rupees Seventeen lakhs thirty twenty two thousand thousands and eight hundred only).**

31. **Apportionment:**

7 (2013) 12 Scale 324  
8 2014 (5) Scale 479  
9 (2013) 9 SCC 54

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| Sl. No. | To whom                               | Amount                |
|---------|---------------------------------------|-----------------------|
| 1.      | 1 <sup>st</sup> petitioner (husband)  | Rs. 7,22,800/-        |
| 2.      | 2 <sup>nd</sup> petitioner (daughter) | Rs.10,00,000/-        |
|         | Total :                               | <b>Rs.17,22,800/-</b> |

32. **Liability:** It is an admitted fact that the accident occurred due to the rash and negligent driving of the driver of the crime vehicle i.e., RTC Bus bearing No. AP05Z5034. The 1<sup>st</sup> respondent is the driver and the 2<sup>nd</sup> and 3<sup>rd</sup> respondents are the Managing Director of the crime vehicle. RW1 was examined on behalf of the 1<sup>st</sup> respondent. Except having suggestions to the petitioners, nothing important was elicited during the cross examination of the witnesses to disbelieve the claim of the petitioners. The driver of crime vehicle during course of employment with the respondent No.2 &3 had caused the accident. The respondents are relied the **Hon'ble Supreme Court judgment in Renuka Devi H. & Ors. vs. Bangalore Metropolitan** to establish contributory negligence of PW1 due to alleged triple riding on a motorcycle at the time of the accident. However, in the present case, there was no instance of triple riding. Moreover, it is inappropriate to consider an eight-month-old baby for the purpose of counting triple riding. Therefore, the aforementioned case law is not applicable to the facts of this case. Since it is established that the accident was occurred due to the rash and negligent driving of the driver of the crime vehicle, the respondents being the driver of the crime vehicle and the corporation, represented by its Managing Director are jointly and severally liable to pay compensation to the petitioner.



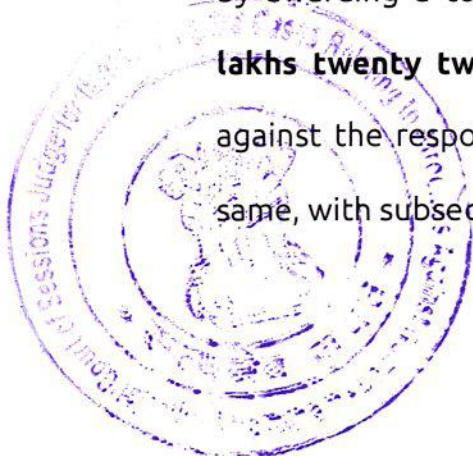
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33. **Rate of interest:** The petitioners are claiming interest @ 12% per annum. As per the principles, laid by the Hon'ble Supreme Court in *Supre De (smt) and others v. National Insurance Company Limited* [(2009) 4 SCC 513] confirming the judgment in *Kaushnuma Begum v. New India Assurance Co.Ltd* [(2001) 2 SCC 9] held that in motor accident cases interest at 9% is appropriate. Hon'ble Supreme Court in (1) *Anjani Singh v Saluddin* [(2014) 15 SCC 582], (2) *Syed Sadiq v United India Insurance Co. Ltd* [(2014) 2 SCC 735] and (3) *Chanderi Singh v Jaspal Singh* [(2015) 11 SCC 703] following the judgment in *Municipal Corporation of Delhi Vs. Association of Victims of Uphaar Tragedy and others* [(2011) 14 SCC 481] held that 9% interest can be awarded from the date of filing of the claim till date of realization. Therefore, following the rulings of the Hon'ble Supreme Court, 9% interest per annum can be awarded from the date of filing of the petition till the date of realization. Accordingly, this issue is answered in favour of the petitioner and against the respondents.

34. **ISSUE No.4:** In view of findings and conclusions on the above issues, the petitioners are entitled for compensation from the respondents. Accordingly, this issue is answered.

35. **IN THE RESULT:** The petition filed by the petitioners is allowed **in part** by awarding a total compensation of **Rs. 17,22,800/- (Rupees Seventeen lakhs twenty two thousand eight hundred only)** with proportionate costs against the respondents and they are jointly and severally liable to pay the same, with subsequent interest @ 9% per annum from the date of filing of the

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petition till the date of deposit of the amount;

The respondents are directed to deposit the awarded amount within **ONE** month from the date of this award;

The 1<sup>st</sup> petitioner (husband) is entitled to Rs.7,22,800 /-(Rupees Seven lakhs twenty two thousand eight hundred only) towards his share from the total compensation amount and he is at liberty to withdraw an amount of Rs.5,00,000/- from his share amount along with proportionate costs and interest and remaining amount shall be deposit as FDR in any nationalised bank for a period of two years.

The 2<sup>nd</sup> petitioner (daughter) is entitled to Rs.10,00,000/- (Rupees ten lakhs only) towards her share from the total compensation amount and she is at liberty to withdraw her entire share amount along with proportionate interest and costs, after attaining majority.

The Advocate fee is fixed at Rs.3,000/- (Rupees three thousand only).

Typed to my dictation, corrected and pronounced by me in Open Court, this the 28<sup>th</sup> day of February, 2025.

*Veervenkata Sai Chandrshekar*  
CHAIRMAN, 28/2

**MOTOR ACCIDENT CLAIMS TRIBUNAL-  
CUM-V ADDITIONAL DISTRICT JUDGE,  
KHAMMAM.**

**-APPENDIX OF EVIDENCE-**  
WITNESSES EXAMINED FOR

**Claim Petitioner:**

P.W.1 : Kunushothu Vijay  
P.W.2 : Kuncham Narsimha rao

**Respondents:**

RW1 : Koppiseti Veervenkata Sai Chandrshekar

**EXHIBITS MARKED FOR**



**Claim Petitioner:**

- Ex.A1 : Certified copy of the First Information Report
- Ex.A2 : Certified copy of Inquest panchanama
- Ex.A3: Certified copy of PME report
- Ex.A.4: Certified copy of Motor vehicle inspector report
- Ex.A.5: Certified copy of Charge sheet
- Ex.A.6: Certified copy of Crime detail form

**Respondents:**



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CHAIRMAN, *28h*

**MOTOR ACCIDENT CLAIMS TRIBUNAL-  
CUM-V ADDITIONAL DISTRICT JUDGE,  
KHAMMAM.**