

APHC010005892019



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

[3505]

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

PRESENT**THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR**

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO:
403/2019

Between:

1. DURABOINA GURRAMMA, W/O. LATE PAPAIAH, HINDU, AGED 46 YEARS, HOUSE-WIFE, RIO CHINNA SINGANAPALLI VILLAGE, DAVVUR MANDAL, KADAPA DISTRICT.
2. DARUBOINA VENKATESU,, S/O. LATE PAPAIAH, HINDU, AGED 26 YEARS, COOLIE, R/O CHINNA SINGANAPALLI VILLAGE, DAVVUR MANDAL, KADAPA DISTRICT.
3. DARUBOINA SRAVANI,, D/O. LATE PAPAIAH, HINDU, AGED 23 YEARS, DEPENDENT, RIO CHINNA SINGANAPALLI VILLAGE, DAVVUR MANDAL, KADAPA DISTRICT.
4. DARUBOINA NARASAMMA,, W/O. LATE VENKATASWAMI, HINDU, AGED 70 YEARS, HOUSE-WIFE, RIO CHINNA SINGANAPALLI VILLAGE, DAVVUR MANDAL, KADAPA DISTRICT.

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

1. S NARASIMHULU, S/O PAPAIAH, HINDU, AGE NOT KNOWN, MAJOR, OWNER OF LORRY BEARING NO. AP 03 X 4339, R/O 5-P-28, GATTUVARIPALLE VILLAGE, SOMALA MANDAL, CHITTOOR DISTRICT.

2. ORIENTAL INSURANCE COMPANY LIMITED, REP. BY ITS
BRANCH MANAGER, RIO 8-1-210 PH ROAD, OPPOSITE
DISTRICT COURT, CHITTOOR,

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Court side the dismissal of claim amount of Rs 4,33,880/- by its Order and Award dated 13-08-2018 in M.V.O.P.No.163 of 2014 on the file of the Court of the Chairman, Motor Accidents /claims Tribunal-Cum- II Additional District Judge, Kadapa, at Proddatur and consequently grant the remaining compensation amount of Rs. Rs 4,33-880/-also and pass

IA NO: 1 OF 2019

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased To condone the delay of 80 days in Representing the MACMASA SR No.431/2019 and pass.

IA NO: 2 OF 2019

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased Condone the delay of 29 days in filing the Main Appeal and to pass.

Counsel for the Appellant(S):

1. NARASIMHA RAO GUDISEVA

Counsel for the Respondent(S):

1. V RAGHU

2.

The Court made the following:

HON'BLE SRI JUSTICE T.C.D. SEKHAR**MACMA No.403 OF 2019****JUDGMENT:-**

1. Aggrieved by order dated 13.08.2018 in M.V.O.P.No.163 of 2014 on the file of Chairman, Motor Accidents Claims Tribunal–Cum- II Additional District Judge, Kadapa at Proddutur, the present appeal is preferred by the claimants.

2. For the sake of convenience the parties are referred to as they were referred in the claim petition.

3. The petitioners filed petition under Section 166 of Motor Vehicle Act read with rules made there under claiming compensation of Rs.9,00,000/- on account of the death of Papaiah (husband of the 1st petitioner, father of petitioner Nos. 2 & 3 and son of petitioner No.4). It is the case of the petitioners that on 26.02.2012 the deceased boarded auto bearing registration No. AP 04 X 7848 to go to Mydhukur. When it reached TVR godown on NH-18, Kurnool-Kadapa, the lorry bearing registration No. AP 03 X 4339 belonging to the

respondent No.1 came on wrong side at high speed, in rash and negligent manner and dashed against the auto, in the process the auto was dragged to some distance. As a result of which two persons died on the spot and other inmates of the auto sustained serious injuries including the deceased. While the deceased was being taken to Government Hospital, Proddutur, on the way he succumbed to injuries. One Sri.K.Naga Subba Reddy witnessed the accident and given complaint and the same was registered in Cr.No.38 of 2014 under Sections 337 and 304-A Indian Penal Code. Later the said crime was investigated into and charge sheet was filed against the driver of the offending lorry.

4. It is further case of the petitioners that the deceased was fisherman and member of Sri Lakshmi Narasimha Swamy Fisherman Cooperative Society Limited, Chinna Singanapalli Village. It is further stated that the said society was having lease for fishing in Reservoir-I and II, Ganjigunta Village of Duvvur mandal. It was the further case of the petitioners that the deceased was holding Ac.3.00 cents of agricultural lands and the same was being cultivated by him

personally and the entire income was being contributed to the family of the petitioners. In view of the demise of the deceased, the petitioners lost their source of income and in those circumstances have approached the Tribunal by filing the present petition.

5. The respondent No.1 remained exparte. The 2nd respondent/insurance company resisted claim. It was the case of the respondent No.2 that the driver of the offending lorry had no driving license as on the date of the accident and therefore, the insurance company is not liable to pay the compensation as claimed by the petitioners. It was further contended that the claim petition was bad for non-joinder of the insurer of the auto as the accident was occurred due to the collusion of the both the vehicles. With the above pleadings, the insurance company prayed to dismiss the claim petition.

6. In order to prove the case of the petitioners, the wife of the deceased was examined as PW-1 and the eye witnesses K.Naga Subba Reddy was examined as PW-2. The petitioners have marked documents in Exhibit A1-A6. On the

other hand the respondent insurance company examined K.Bhashyam, Senior Branch Manager as RW-1 and did not file any documentary evidence.

7. Considering the oral and documentary evidence, the Tribunal by order under challenge awarded compensation of Rs.4,63,000/- together with interest @7.5% per annum from the date of petition till the date of realization by fastening liability on the respondents. Aggrieved by the quantum of the compensation awarded by the Tribunal, claimants approached this Court seeking to enhance the compensation.

8. Heard Sri T.Manikanta representing Sri. Narasimharao Gudiseva counsel for the the appellant and Sri V.Raghu appearing for the respondent No.2/insurance company. Despite service notice, there is no appearance for respondent No.1. Perused the material available on record.

9. The counsel for the appellant strenuously contends that the Tribunal did not appreciate the oral and documentary evidence placed before it, while awarding the compensation. He would further submit that despite regarding the fact that the

deceased was having agricultural land to an extent of Ac.2.56 cents, the Tribunal did not take the same into consideration and rejected the same stating that the petitioners failed to prove that the income of the deceased from the agricultural lands. He would further submit that it was the specific case of the petitioners that the deceased was member of Sri.Lakshmi Narasimha Swamy Fisherman Co-operative Society Ltd., and he was earning an amount of Rs.15,000/- per month. He would further submit that the Tribunal while disbelieving the documents put forth by the petitioners, erroneously taken the income of the deceased as Rs.112/- per day by treating him as coolie and awarded compensation as aforesaid.

10. A perusal of the record would go to show that the petitioners had filed identity card issued by the Fisheries Department, Government of Andhra Pradesh and the same was marked as Ex.A5. Apart from the same, in order to prove the contention of the petitioners that the deceased was cultivating the agricultural lands, they have filed pattadar passbook to show that the deceased was having an extent of Ac.2.56 cents on his name as on the date of the accident.

Despite the evidence placed by the petitioners, the Tribunal brushed aside the same without giving any reasons. Further in order to disprove the evidence placed by the petitioners, the respondent/insurance company did not place any material on record. Though, the Insurance Company examined the Senior Branch Manager as RW-1, the evidence of RW-1 will not come to the rescue of Insurance Company to disbelieve the case of the petitioners. Therefore, it is held that the Tribunal did not appreciate oral and documentary evidence placed by the petitioners. Further, the Tribunal had fixed the income of the deceased as Rs.112/- per day treating the deceased as coolie. The said finding is not sustainable under law inasmuch as despite the fact that ample evidence is available on record, the Tribunal ignored the same without offering any reasons. In the circumstances, the petitioners are entitled to receive supervisory charges as against the agricultural lands held by the deceased @ Rs.3,000/- per acre inasmuch as the petitioners necessarily to engage a person to supervise the agricultural lands and the yield produce there from. Further, this view is fortified by the judgment rendered by the Hon'ble

Apex Court in the case of **“Sailaja & others Vs. Pavan B.Udupudi and another”¹**. Further this Court in the case of the **“C.Ramachandramma & others Vs. C.Sridhar Reddy & others”²** has taken similar view. Further, the petitioners were also entitled to receive future prospects @ 25%, accordingly the compensation is computed as per the judgment rendered by the Hon'ble Apex Court in the case of **“Pranay sethi Vs. National Insurance Company Limited”³** as under:

Description of the Head	Amount Entitled in Rupees
Net Annual Income	Rs.3,360x12=Rs.40,320/-
Supervisory Charges on Agricultural Income (2.56 Acra) (Rs.3,000/- per Acra)	Rs.7,680x12 =Rs.92,160/-
Future Prospects (for the age of 47 years)	Rs.33,120/- (i.e., 25% of the Income) Total Annual Income= Rs.1,32,480/-
Deduction towards personal expenditure (i.e., 1/4 th)	Rs.41,400/-
Total Income	Rs.1,24,200/-

¹ Civil Appeal No.840 of 2025

² MAMA 2703 OF 2017

³ (2017) 16 SCC 680

Multiplier of 18 for the age 16 years	Rs.50,400/-x18 = Rs.9,07,200/-
Conventional Heads:	
(i) Loss of consortium (4 claimants)	Rs.40,000x4 = Rs.1,60,000/-
(ii) Loss of Estate	Rs.15,000/-
(iii) Funeral Expenses	Rs.15,000/-
Total Compensation	Rs.18,04,600/-

11. Further though the petitioners had claimed an amount of Rs.9,00,000/- towards compensation, it is needless to mention that the Court is duty bound to see that the just compensation is paid to the victims/Legal Heirs especially while dealing with the matters arising under beneficial legislation and this view of the Court is fortified by Judgment of this Court in the case of ***“C.Ramachandramma & others Vs. C.Sridhar Reddy & others”***⁴. In view of the above, there is no impediment on this Court to award compensation over and above the claim made by the petitioners.

12. For the forgoing reasons the appeal is allowed and the compensation is enhanced to Rs.18,04,600/- and the

⁴ MAMA 2703 OF 2017

respondents are directed to pay the enhanced amount together @ 7.5% per annum from the date of petition, till the date of realization. Further the enhanced compensation is to be deposited within a period of two (02) months from the date of receipt of the copy of this order. Accordingly, the present appeal is allowed.

As a sequel, interlocutory applications pending, if any shall stand closed.

T.C.D.SEKHAR, J

23.04.2026
CMK

134

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

MACMA NO.403 of 2019

23.04.2026

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