



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

[3333]

MONDAY, THE TWENTIETH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 173/2023

Between:

1. NERATI VENKATESWARA REDDY, S/ O. KOTI REDDY, AGED ABOUT 54 YEARS,
2. NERATI LAKSHMI,, W/O. VENKATESWARA REDDY, AGED ABOUT 52 YEARS, BOTH THE PETITIONERS ARE R/ O. GORANTLA, GUNTUR RURAL MANDAL, GUNTUR DISTRICT

...APPELLANT(S)

AND

1. N KOTESWARA RAO, S/ O. PEDA KOTI LINGAM, R/ O. DOOR NO. 1-16-72, BURAMPET, NARASARAOPET, GUNTUR DISTRICT - 522 601 (DRIVER OF THE LORRY BEARING NO AP 07 TN 2739)
2. MANDALAPU MALLIKHARJUNA RAO, S/ O. KASIAH, R/O. DOOR NO. 7-27, RAMALAYAM CENTER, BODILAVEEDU, VELDURTHI, GUNTUR DISTRICT - 522 613 (LORRY OF THE LORRY BEARING NO AP 07 TN 2739)
3. NATIONAL INSURANCE COMPANY LIMITED, REP. BY ITS DIVISIONAL MANAGER, OPPOSITE CHILLS HOTEL, NEAR I.D. HOSPITAL, AMARVATHI ROAD, GUNTUR, GUNTUR DISTRICT - 522006

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Court begs to present this Memorandum of Civil Miscellaneous Appeal before this Hon'ble

Court against the order in MVOP No. 475 of 2020, dt.04-08-2022 passed by Motor Accidents Claims Tribunal - cum - Principal District Judge, Guntur

IA NO: 1 OF 2023

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 57 days in filing the MACMA and to pass

IA NO: 2 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to permit the petitioners/appellants to claim enhancement of Rs.6,94,800/- from Rs.10,05,200/- to Rs.17,00,000/- and to pass

Counsel for the Appellant(S):

1.K RAMA KRISHNA REDDY

Counsel for the Respondent(S):

1.N RAMA KRISHNA

2.

The Court made the following:

JUDGMENT:

This Civil Miscellaneous Appeal is preferred by the appellants/claimants, challenging the order and decree dated 04.08.2022 passed in M.V.O.P.No.475 of 2020 on the file of the Motor Accidents Claims Tribunal-cum-Principal District Judge, Guntur, wherein the Tribunal awarded compensation of Rs.10,05,200/- (Rupees Ten lakhs Five Thousand Two Hundred only) as against the claim of Rs.12,00,000/-, on account of the death of the deceased, Koti Reddy, in a motor accident that occurred on 11.09.2020.

02. For the purpose of convenience, the parties will be referred to as they are arrayed before the Tribunal.

03. The case of the petitioner, in brief, is as follows

a) On 11.09.2020, while the deceased was proceeding on his motorcycle bearing No.AP 07 BJ 9157 from Kothapalli Village of Macherla Mandal to Dondleru Village, on the left side of the road, observing traffic rules, at about 7:00 p.m., near Srinivasa Nagar Colony on the Addanki–Narkatpalli State Highway Road at Piduguralla Town, a lorry bearing No.AP 07 TN 2793, driven in a rash and negligent manner, came from behind at high speed, without blowing horn and without following traffic rules, and hit the motorcycle. As a result, the deceased fell down and the wheels of the lorry ran over his head, causing instantaneous death. The motorcycle was also badly damaged.

b) The claimants, who are the parents of the deceased, contended that the deceased was engaged in cultivation and earning Rs.12,000/- per month.

Hence, they sought compensation of Rs.12,00,000/-.

04. Before the Tribunal, respondents No.1 and 2 remained *ex parte*.

05. Respondent No.3/Insurance Company filed a written statement denying the averments in the claim petition and putting the same to strict proof. It specifically denied the age and income of the deceased and the dependency of the claimants. It further contended that the accident occurred due to the rash and negligent riding of the motorcycle by the deceased. It was also contended that the deceased did not possess a valid driving licence, and that the driver of the lorry also did not possess a valid licence to drive heavy vehicles, and therefore, the insurer is not liable to indemnify the owner. The insurer also raised various statutory defences under the Motor Vehicles Act.

06. Based on the pleadings, the Tribunal framed the following issues for trial:

“1. Whether the deceased died due to rash and negligent act of the driver of the offending vehicle bearing registered No.AP 07 TN 2739 as alleged by the petitioners?

2. Whether the petitioners are entitled to compensation as prayed for?

3. To what relief?

07. On behalf of the petitioners, P.W.1 to P.W.3 were examined and Exs.A1 to A5 were marked. On behalf of the respondents, no oral evidence was adduced; however Ex.B1/ insurance policy was marked.

08. After hearing both parties and considering the oral and documentary evidence on record, the Tribunal partly allowed the claim petition as follows:

“1) Petitioners are entitled to a total compensation of Rs.10,05,200/-.

2) Petitioners are entitled for interest @ 7.5% on the amount awarded from the date of proper presentation of the petition i.e., 27.10.2020 till realization.

3) Rest of the claim of the petitioners is dismissed without costs.

4) Out of total compensation, first petitioner is entitled to take a sum of Rs.3,00,000/- with accrued interest thereon, and half of the costs.

5) Second petitioner is entitled to take a sum of Rs.7,05,200/- with accrued interest thereon and also half of the costs.

6) On deposit, the petitioners are entitled to withdraw their entire respective amounts, as they are parents to the deceased.

7) Time granted for deposit of amount is 30 days from the date of award.

8) Advocate fee is fixed at Rs.10,000/-

9) All the 3 respondents are jointly and severally liable to pay compensation.

09. Being not satisfied with the quantum of compensation, the claimants preferred the present civil miscellaneous appeal, seeking enhancement of the compensation.

10. During pendency of this MACMA, the appellant preferred I.A.No.2 of 2023 seeking amendment of claim petition by enhancing the claim amount to Rs.12,00,000/- from Rs.17,00,000/- with consequential permission to pay the additional court fee, on the ground that he was advised that they are entitled to more compensation than what has been claimed. Considering the same, the said application has been allowed, permitting the amendment sought for in

respect of the claim amount and directing the petitioners to pay the additional court fee.

11. Learned counsel for the appellants contended that the Tribunal committed an error in fixing the monthly income of the deceased at Rs.6,500/- and failed to award compensation under the head of loss of love and affection. It is further contended that the Tribunal did not properly assess the compensation towards future prospects. Even in the case of self-employed persons, the Hon'ble Apex Court has held that an addition of 50% of the income towards future prospects is permissible. Therefore, it is prayed that the appeal be allowed by enhancing the compensation awarded by the Tribunal.

12. On the other hand, learned counsel for the 3rd respondent has supported the impugned award and prayed to dismiss the appeal.

13. Heard Ms.K.Saritha, learned counsel representing Mr. K.Ramakrishna Reddy, learned counsel for the appellants and Mr.N.Ramakrishna, learned Standing Counsel for respondent No.3.

14. Now the point for consideration is:

“Whether the compensation awarded by the Tribunal is just and reasonable, or requires enhancement in this appeal; if so, to what extent?”

POINT:

15. On a perusal of the impugned award, it is observed that the claimants are the parents of the deceased. The 1st claimant, being the father of the deceased, examined himself as P.W.1 and deposed with regard to the

manner of the accident, and Exs.A1 to A5 were marked. The claimants also examined P.W.2, an eye-witness to the accident, who categorically deposed that on 11.09.2020, while he was standing on the left side of the road margin near Srinivasa Nagar Colony on the Addanki–Narkatpalli State Highway Road at Piduguralla Town at about 7:00 p.m., a motorcycle proceeding from Kothapalli Village of Macherla Mandal to Dondleru Village, on the left side of the road, in a slow and careful manner while observing traffic rules, was hit from behind by a lorry bearing No.AP 07 TN 2793, driven by the 1st respondent in a rash and negligent manner, without blowing horn and without following traffic rules. As a result, the deceased fell down, sustained grievous injuries, and died on the spot, and the motorcycle was badly damaged. P.W.3, who is also an eye-witness to the accident, deposed on similar lines as P.W.2. Considering the evidence of P.Ws.1 to 3 and Ex.A1–FIR, Ex.A2–charge sheet, and Ex.A5–MVI report, the Tribunal answered Issue No.1 in favour of the claimants, holding that the accident occurred due to the rash and negligent driving of the 1st respondent, resulting in the death of the deceased, and the said finding does not warrant interference by this Court.

16. Now, coming to Issue No.II, as per the evidence of P.W.1, the deceased, during his lifetime, was engaged in cultivation and was earning Rs.12,000/- per month. It is further stated that the family owned agricultural land to an extent of Ac.10.00 and that the deceased had additionally taken on lease land belonging to one Nerati Satyanarayana Reddy and two others to an extent of Ac.10.00, and was cultivating a total extent of Ac.20.00, earning

about Rs.20,000/- per month by raising chilli and cotton crops. However, except the oral evidence of P.W.1, there is no documentary or other corroborative evidence to establish that the deceased was earning Rs.20,000/- per month. In the absence of such evidence, the Tribunal fixed the notional income of the deceased at Rs.6,500/- per month. As rightly contended by the learned counsel for the appellants, in the absence of proof of income, the notional income ought to have been fixed based on the minimum wages prevailing at the relevant time. Admittedly, in the year 2020, the minimum wage for an unskilled worker was Rs.362/- per day, which would come to Rs.10,860/- per month ($\text{Rs.}362 \times 30 \text{ days}$). As the deceased was aged about 29 years as on the date of the accident, as per Ex.A3—postmortem certificate, he is entitled to an addition of 40% towards future prospects, thereby arriving at Rs.15,204/- ($\text{Rs.}10,860 + \text{Rs.}4,344/-$). As the deceased was a bachelor, 50% is to be deducted towards personal and living expenses, thereby arriving at a monthly contribution of Rs.7,602/- to the family. By applying the appropriate multiplier of '17' for the age of 29 years, as per the decision of the Hon'ble Apex Court in **Sarla Verma v. Delhi Transport Corporation**¹, the loss of dependency is assessed at Rs.15,50,808/- ($\text{Rs.}7,602 \times 12 \times 17$).

17. Apart from the above, the Tribunal awarded Rs.16,500/- towards loss of estate, Rs.16,500/- towards funeral expenses, and Rs.44,000/- towards loss of consortium to the 2nd claimant alone, who is the mother of the deceased,

¹2009 ACJ 1298

instead of awarding the same to the 1st claimant also, who is the father of the deceased. If the same considered, both the claimants are entitled to consortium, which would amount to Rs.80,000/- (Rs.40,000/- each).

18. Further, it is observed that though the Tribunal awarded Rs.16,500/- each towards loss of estate and funeral expenses, the conventional amount payable under each of the said heads is Rs.15,000/-. Accordingly, the claimants are entitled to Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses.

19. Thus, to sum up, the amounts awarded by the Tribunal and the amounts granted in the present appeal, in the light of the computations made above, are as follows:

Head	Amount granted by the Tribunal	Amount now awarded by this Court
Loss of dependency	Rs.9,28,200/-	Rs. 15,50,808/-
Funeral expenses	Rs.16,500/-	Rs.15,000/-
Loss of estate	Rs.16,500/-	Rs.15,000/-
Loss of consortium	Rs.44,000/-	Rs.80,000/-
Total	Rs.10,05,200/-	Rs.16,60,800/-

20. Accordingly, the Motor Accident Civil Miscellaneous Appeal is partly allowed enhancing the compensation from Rs.10,05,200/- to Rs.16,60,800/- with interest at 7.5% p.a. from the date of filing of the petition till the date of realization subject to payment of additional court fee by the claimants within

30 days from the date of receipt of a copy of this judgment. The compensation amount shall be apportioned among the claimants in the same manner and ratio as ordered by the Tribunal. There shall be no order as to costs.

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

Date: 20.04.2026
KGR

JUSTICE V. SUJATHA