



**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: 102/2023

Between:

- 1.BELDARI MUMTAZ, W/O.KHAJA MOHIDDIN AGED 52 YEARS,
OCC.HOUSEWIFE R/O.D.NO.13-707, DARGA STREET
KAMALAPURAM TOWN, POST AND MANDAL YSR KADAPA
DISTRICT, ANDHRA PRADESH
- 2.BELDARI KHAJA MOHIDDIN, S/O.ABDUL GAFOOR AGED ABOUT
67 YEARS, R/O.D.NO.13-707, DARGA STREET KAMALAPURAM
TOWN, POST AND MANDAL YSR KADAPA DISTRICT, ANDHRA
PRADESH
- 3.BELDARI ASMA BEGUM, S/O.KHAJA MOHIDDIN AGED 19 YEARS,
OCC.STUDENT, R/O.D.NO.13-707, DARGA STREET KAMALAPURAM
TOWN, POST AND MANDAL YSR KADAPA DISTRICT, ANDHRA
PRADESH

...APPELLANT(S)

AND

- 1.MAHENDRA TRANSPORT PVT LTD, REP.BY ITS MANAGING
DIRECTOR N.MAHENDRA REDDY OWNER OF THE LORRY
BEARING NO.AP 04-TX-3048, MODAMEEDAPALLI VILLAGE, PATHA
KADAPA BYPASS ROAD PATHA KADAPA POST, YSR KADAPA
DISTRICT, AP
- 2.P NAGA SUBBANNA, S/O.P.PUSHPA RAU AGED ABOUT 32 YEARS,
LORRY DRIVER R/O.D.NO.3/ 165, BACHUMPALLI VILLAGE AND
POST KADAPA CITY AND DISTRICT, AP

3.THE ORIENTAL INSURANCE COMPANY LIMITED, REP.BY ITS
MANAGER, BRANCH OFFICE OPP.DISTRICT COURT, KADAPA,
KADAPA CITY YSR KADAPA DISTRICT, ANDHRA PRADESH.

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High CourtAggrieved by the order and decree passed in M.V.O.P.No.56/2021 dt.29- 12-2022 on the file of the Court of the Motor Accidents Claims Tribunal-cum-Family Court-cum-VI Additional District Judge, Kadapa, YSR Kadapa District, Andhra Pradesh the above named appellants beg to present this Memorandum of MACMA

Counsel for the Appellant(S):

1.D KODANDARAMI REDDY

Counsel for the Respondent(S):

1.GUDI SRINIVASU

2.SREE DEEPTHI G

The Court made the following:

JUDGMENT:

This Civil Miscellaneous Appeal is preferred by the appellants/claimants, challenging the order and decree dated 29.12.2022 passed in M.V.O.P.No.56 of 2021 on the file of the Motor Accidents Claims Tribunal-cum-VI Additional District Judge, Kadapa, wherein the Tribunal awarded compensation of Rs.17,52,600/- (Rupees Seventeen lakhs Fifty two thousand six hundred only) as against the claim of Rs.33,17,000, on account of the death of the deceased, Beldari Mohammed Irfan, in a motor accident that occurred on 03.12.2020.

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 03.12.2020, the deceased and his friend, Syed Poola Mohammed Sadaq, left Kamalapuram on their respective motorcycles to Kadapa on personal work. After completion of their work, they started their return journey at about 7.00 p.m. At about 7.20 p.m., after crossing the Airport Gate situated on the Kadapa–Kamalapuram main road, the 1st respondent's lorry bearing No.AP04 TX 3048, driven by the 2nd respondent, came from the opposite direction in a rash and negligent manner, at high speed, and on the wrong side of the road, and hit the motorcycle on which the deceased was proceeding as a pillion rider. As a result, the deceased and the rider of the motorcycle, Syed Poola Mohammed Sadaq, died instantaneously. One Syed

Poola Mohammed Arif, who was following them on another motorcycle, witnessed the accident. Based on a complaint, Vallur Police Station registered a case in Crime No.189 of 2020 under Section 304-A IPC against the 2nd respondent.

b) It is the contention of the claimants that the deceased was sincere, hardworking, and intelligent, and that, had he not met with the premature death, his income would have increased substantially. It is further contended that the deceased intended to perform the marriage of the 3rd petitioner, his younger sister, and that, due to his sudden death, the petitioners lost their support and future prospects. The 1st respondent's vehicle was insured with the 3rd respondent–insurance company, and the policy was in force on the date of the accident. Therefore, respondents 1 to 3 are jointly and severally liable to pay compensation to the petitioners, who are the legal heirs and dependents of the deceased. Accordingly, they sought compensation of Rs.33,17,000/-.

04. Before the Tribunal, respondent Nos. 1 and 2/owner and driver of the offending vehicle remained *ex parte*.

05. The 3rd respondent–insurance company filed its written statement contending, inter alia, that the claimants have to prove the age and income of the deceased and the manner of the accident. It was further contended that the accident occurred due to the negligence of the rider of the motorcycle, that the rider had no valid driving licence, and that the owner of the lorry did not

inform the insurer or submit claim forms. It was also contended that the policy was subject to terms and conditions, including the requirement that the driver should possess a valid and effective driving licence and that the vehicle should have valid registration, permit, and fitness certificate. The compensation claimed was stated to be excessive, and dismissal of the petition was sought.

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

“1. Whether the accident took place on 03.12.2020 at about 7.20 p.m., due to rash and negligent driving of the driver of the lorry bearing No.AP04 TX 3048 i.e. 2nd respondent, resulting caused death of the deceased ?

2. Whether the petitioners are entitled for the compensation as claimed, if so, for what amount and from whom ? and

3. To what relief ?

07. On behalf of the claimants, P.W.1 to P.W.3 were examined and Exs.A1 to A6 were marked. On behalf of the 3rd respondent, none were examined and no documents were marked.

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

“In the result, the petition is allowed in part, with proportionate costs, awarding compensation of Rs.17,52,600/- (Rupees

seventeen lakhs fifty two thousand and six hundred only) to the petitioners together with interest @ 7.5% p.a., from the date of petition till the date of deposit.

The respondent No.3 insurance company is directed to deposit the above said compensation amount along with interest and costs into court within two (2) months from the date of this order.

On such deposit, the petitioner No.3 who is younger sister of the deceased is entitled for Rs.3,00,000/- (Rupees three lakhs only) and permitted to withdraw the same with accrued interest thereon.

The petitioners 1 and 2 who are parents of the deceased are entitled for remaining awarded compensation amount equally and permitted to withdraw the same with accrued interest and costs thereon. Advocate fee is fixed at Rs.10,000/-"

09. Aggrieved by the said award, the present appeal is filed contending that the Tribunal erred in not adding future prospects at the rate of 50% in terms of the judgment of the Hon'ble Apex Court in *National Insurance Company Ltd. v. Pranay Sethi and others*; that the Tribunal ought to have awarded interest at the rate of 9% per annum instead of 7.5% per annum; that the Tribunal ought to have awarded an amount of Rs.50,000/- each to the parents towards parental consortium; and that the Tribunal ought to have awarded a total compensation of Rs.33,17,000/- to the claimants, which would constitute just compensation.

10. On the other hand, learned Standing Counsel for the 3rd 2nd respondent/insurance company has supported the impugned award and prayed to dismiss the appeal.

11. Heard Mr.D.Kodandarami Reddy, learned counsel for the appellants and Mr.Gudi Srinivas, learned Standing Counsel for respondent No.3.

12. 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:

13. On a perusal of the impugned award, it is evident that the 1st claimant, who is the mother of the deceased, examined herself as P.W.1 and deposed with regard to the nature of the accident, and in support of her case, marked Exs.A1 to A6. The claimants also examined P.W.2, an eye-witness to the incident, who categorically stated in his chief examination that he, his brother, and his friend were proceeding on 03.12.2020 on their respective motorcycles. He further deposed that he was on one motorcycle, while his brother, Mohammed Sadaq, and his friend, Mohammed Irfan (the deceased), were proceeding on another motorcycle from Kamalapuram for personal work, and after completion of the same, while they were returning and after crossing the Airport Gate at about 7.20 p.m. on the Kadapa–Kamalapuram main road, the lorry bearing No. AP04 TX 3048, belonging to the 1st respondent and driven by the 2nd respondent, came from the opposite direction in a rash and negligent manner, at high speed, without giving dim and dip, and dashed against the motorcycle of his brother, as a result of which both died on the spot. Considering the evidence of P.W.1 and P.W.2, coupled with Exs.A1 to

A4, the Tribunal concluded that the accident occurred due to the rash and negligent driving of the 2nd respondent, resulting in the death of the deceased. Accordingly, the said issue is answered in favour of the claimants, being well-reasoned, does not warrant any interference by this Court.

14. Coming to the quantum of compensation, as per the evidence of P.W.1, the deceased was working as an Engineer in Shirdi Sai Electricals Limited, Kadapa and was earning a monthly salary of Rs.15,000/- and in support of their claim, the claimants filed Ex.A6/pay slip details and also got examined P.W.3, who is the Assistant Manager in the H.R. Department of Shirdi Sai Electricals, Kadapa, through him, Exs.X1 and X2 were marked. Ex.X1 is the appointment letter of the deceased and Ex.X2 consists of the pay slip for the months of October, 2020 and November, 2020. Considering the evidence of P.W.3, coupled with Exs.A6, X1 and X2, the Tribunal assessed the income of the deceased at Rs.14,700/- per month after deducting E.S.I. and canteen deduction of Rs.305/- (rounded off to Rs.300/-). As the deceased was a bachelor at the time of the accident, the Tribunal rightly deducted 50% towards his personal and living expenses, thereby arriving at a monthly contribution of the deceased comes to Rs. 7,350/- (Rs.14,700 – Rs.7,350/-). As rightly contended by the learned counsel for the appellants, the Tribunal failed to add 40% to the income of the deceased towards future prospects. Since the deceased was aged about 25 years, as recorded in Ex.A2/inquest and Ex.A3/postmortem report, an addition of 40% towards future prospects is warranted in terms of the decision of the Hon'ble Apex Court in **National**

Insurance Company v. Pranay Sethi¹. Thus, the monthly income is recalculated at Rs.10,290/- (Rs.7,350 + 2,940). By applying the appropriate multiplier of '18' to the age group of 25 years as per **Sarla Verma v. Delhi Transport Corporation**² the loss of earnings comes to Rs.22,22,640/- (Rs.10,290 X 12 X 18).

15. Apart from the same, the Tribunal awarded Rs.1,00,000/- towards mental agony to claimants No.1 and 2 being the parents of the deceased, Rs.50,000/- towards love and affection to claimant No.3 and Rs.15,000/- towards funeral expenses. However, this Court is of the opinion that all the petitioner are entitled under the head of loss of consortium to a tune of Rs.40,000/- each. If the same is considered, claimants 1 and 2 were entitled Rs.80,000/- (Rs.40,000 X 2) towards filial consortium and the claimant No.3 is entitled for Rs.40,000/- towards love and affection, instead of awarding Rs.1,50,000 (Rs.1,00,000 towards mental agony + Rs.50,000 towards love and affection) by the Tribunal. However, the Tribunal failed to consider under the head of loss of estate to a tune of Rs.15,000/-. If the same is considered, the total compensation payable to the claimants would come to Rs.25,31,400/-

16. 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:

¹2017 ACJ 2700

²2009 ACJ 1298

Head	Amount granted by the Tribunal	Amount now awarded by this Court
Loss of earnings	Rs.15,87,600	Rs.22,22,640/-
Loss of consortium (Mental agony and Love and affection)	1,50,000/-	Rs.1,20,000/-
Funeral expenses	Rs.15,000/-	Rs.15,000 /-
Loss of estate	--	Rs.15,000/-
Total	Rs.17,52,600/-	Rs.23,72,640/-

17. Accordingly, the Motor Accident Civil Miscellaneous Appeal is partly allowed enhancing the compensation from Rs.17,52,600/- to Rs.23,72,640/- with interest at 7.5% P.A. from the date of filing of the petition till the date of realization. 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.

JUSTICE V. SUJATHA

Date: 20.04.2026
KGR