

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

WEDNESDAY, THE NINETEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE



PRESENT

HONOURABLE SRI JUSTICE V SRINIVAS

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL No.141 of 2022

Between:

1. Medisetti Seethamahalakshmi, W/o. Late Venkateswara Rao, Hindu, Female, age 28 years, House wife, D.No.3129, Kapula Street, Gundugolanu, Bhimadole Mandal.
2. Medisetti Uma Durga Prasad, S/o. Late Venkateswara Rao, Hindu, male, age 33 years, Student, D.No.3129, Kapula Street, Gundugolanu, Bhimadole Mandal.
3. Medisetti Sridevi, D/o. Late Venkateswara Rao, Hindu, Female, age 29 years, Student, D.No.3129, Kapula Street, Gundugolanu, Bhimadole Mandal.
4. Medisetti Subbarao, S/o. Late Somanna, Hindu, male, age 55 years, Dependant and sick person, D.No.3129, Kapula Street, Gundugolanu, Bhimadole Mandal.
5. Medisetti Suryakantham, W/o. Subba Rao, Hindu, Female, age 50 years, House wife, D.No.3129, Kapula Street, Gundugolanu, Bhimadole Mandal.

...Appellants/Petitioners

AND

1. Nayudu Suryanarayana, S/o. Rama Rao, Hindu, Male, age 35 years, Driver of Lorry bearing No.AP 21 T 1689, Pulapalli, Palakol Mandal.

2. Boorlu Bhima Venkata Narasimha Rao, S/o. Someswara Rao, Hindu, Male, age 30 years, Owner of Lorry bearing No.AP 21 T 1689, D.No.63320, Patamatalanka, Vijayawada.
3. The Divisional Manager, The New India Assurance Co. Ltd, Tadepalligudem, West Godavari District.

...Respondents/ Respondents

Appeal filed under Section 173 of M.V.Act, aggrieved by the decree and judgment passed in M.V.O.P.No.689 of 2005, dated 30-04-2021, on the file of Motor Accident Claims Tribunal -cum- II Additional District Judge, Eluru, West Godavari District.

This appeal coming on for hearing and upon perusing the grounds of Petition, the Order and Decree of the Trial Court and the material papers in the Petition and upon hearing the arguments of Sri Eluru Sesha Mahesh Babu, Advocate for the Appellants and none appeared for Respondent Nos.1 & 2 and of Sri MRK Chakravarthy, Advocate for Respondent No.3.

This Court doth Order and decree as follows:

1. That the appeal be and is hereby allowed in part;
2. That the compensation be and is hereby enhanced from Rs.3,50,000/- to Rs.11,89,500/- with interest at 8% per annum, with costs, from the date of petition till the date of realization against the respondent Nos.1 and 2.
3. That the respondent No.3/insurer be and is hereby directed to deposit the compensation amount before the Tribunal within two months from the date of this judgment before the Tribunal at first instance and then recover the same from the 2nd respondent/owner by filing execution petition.
4. That on such deposit, the claimant Nos.1 to 3 (wife and two children) be and are hereby entitled to receive an amount of Rs.3,00,000/- each,

- claimant No.4 (father) is entitled to receive an amount of Rs.1,39,500/-,
claimant No.5 is entitled to receive an amount of Rs.1,50,000/- and;
5. That the claimant Nos.1, 4 and 5 are permitted to withdraw their respective shares with interest accrued thereon.
 6. That the compensation awarded to the claimant Nos.2 and 3 be and are hereby directed to deposited in any Nationalized Bank till they attain majority by the Tribunal.
 7. That the claimants be and are hereby directed to pay the deficit Court Fee before the Tribunal forthwith.
 8. The Tribunal be proceed to pay the amount in the aforesaid terms, adjusting the amount, if any, already paid.

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Sd/- M SRINIVAS
ASSISTANT REGISTRAR


SECTION OFFICER

To

1. The Motor Accident Claims Tribunal -cum- II Additional District Judge, Eluru, West Godavari District.
2. Three CD Copies

TK

HIGH COURT

DATED:19/03/2025

DECREE

MACMA.No.141 of 2022



ALLOWING THE MACMA IN PART



IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

WEDNESDAY, THE NINETEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

PRESENT

HONOURABLE SRI JUSTICE V SRINIVAS



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Between:

1. Medisetti Seethamahalakshmi, W/o. Late Venkateswara Rao, Hindu, Female, age 28 years, House wife, D.No.3129, Kapula Street, Gundugolanu, Bhimadole Mandal.
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AND

1. Nayudu Suryanarayana, S/o. Rama Rao, Hindu, Male, age 35 years, Driver of Lorry bearing No.AP 21 T 1689, Pulapalli, Palakol Mandal.
2. Boorlu Bhima Venkata Narasimha Rao, S/o. Someswara Rao, Hindu, Male, age 30 years, Owner of Lorry bearing No.AP 21 T 1689, D.No.63320, Patamatalanka, Vijayawada.
3. The Divisional Manager, The New India Assurance Co. Ltd, Tadepalligudem, West Godavari District.

...Respondents/ Respondents

Counsel for the Appellants : Sri Eluru Sesa Mahesh Babu

Counsel for Respondent Nos.1 & 2 : None Appeared

Counsel for Respondent No.3 : Sri MRK Chakravarthy

The Court made the following:

THE HON'BLE SRI JUSTICE V.SRINIVAS

M.A.C.M.A.No.141 of 2022

JUDGMENT:

This appeal is directed against the order of the Chairman, Motor Vehicle Accident Claims Tribunal-cum-V Additional District Judge, West Godavari at Eluru (hereinafter called as 'the Tribunal') in M.V.O.P.No.689 of 2005 dated 30.04.2021.

2. The appellants, who are wife, children and parents of one Medisetti Venkateswara Rao (hereinafter called as "deceased"), are the claimants before the Tribunal. The respondent Nos.1 to 3 are the driver, owner and insurer of the Lorry bearing No.AP 21 T 1689 (hereinafter referred to as "crime lorry") respectively.

3. The case of the claimants, in the petition before the Tribunal is that:

i). On 17.03.2002 at about 05.30 a.m., while the deceased proceeding in the crime lorry, when they reached Pulla village, the crime lorry driven by the 1st respondent in a rash and negligent manner at high speed, dashed the stationed lorry bearing No.AP 16 W 3146, resulted the deceased and one Inti

Srinivas died on the spot and others sustained severe injuries.

ii). The deceased used to earn Rs.5,000/- per month by doing business and contributed the same for the welfare of the family. Being dependents, they claimed compensation of Rs.3,50,000/- against the driver, owner and insurer of the crime lorry.

4. The respondent No.2/owner filed written statement denying the averments in the petition and pleaded that the 1st respondent is having valid driving license to drive the crime lorry; that the crime vehicle is having valid permit and insurance by the date of incident; that the compensation claimed by the claimant is excessive, thereby, prayed to dismiss the petition against this respondent.

5. The respondent No.3/insurer filed written statement denying the averments in the petition and pleaded that the deceased and others were travelling in the crime lorry as gratuitous passengers by the time of incident, thereby, the

insurer is not liable to pay any compensation to the claimants.

6. The Tribunal settled the following issues for enquiry basing on the material:

- “1. Whether the accident in which the deceased died, had occurrence on 17.03.2002 at about 5.30 AM near Railway station at Pulla, only on account of rash and negligence of 1st respondent, who was the driver of the lorry AP 21 T 1689 in which he along with his owner and four other business people were travelling with their fancy and plastic toys which it the stationed lorry AP 16 W 3146 as claimed by the petitioners?
2. Whether the deceased or others were travelling in the said lorry AP 21 T 1689 as unauthorized passengers, as claimed by the 3rd respondent/Insurance company?
3. Whether the original petition is bad for non-joinder of the driver, owner and insurer of the lorry AP 16 W 3146, as claimed by 3rd respondent/Insurance company?
4. Whether the petitioners are entitled to claim compensation and if so, from whom and for how much amount? and
5. To what relief?”

7. During enquiry, on behalf of the claimant, PWs.1 and 2 were examined, Exs.A.1 to A.5 were exhibited. On behalf of the respondent No.3, its official was examined as R.W.1 and Ex.B.1 policy was marked.

8. On the material, the Tribunal, having come to the conclusion that the accident occurred due to the rash and negligent driving of the crime lorry by the 1st respondent, held that the claimant is entitled for the compensation of Rs.3,50,000/-, with interest at 8% per annum from the date of petition till the date of realization against the respondent Nos.1 and 2 only, for the death of the deceased in the accident. The claim against respondent No.3 is dismissed since the deceased was travelling in the crime lorry as unauthorized passenger by the time of incident.

9. It is against the said award; the present appeal was preferred by the appellants/claimants.

10. Heard Sri Eluru Sesha Mahesh Babu, learned counsel for the appellants/claimants and Sri M.R.K.Chakravarthy, learned counsel for the respondent No.3/insurer.

11. Now, the following points arise for determination:

1. Whether the insurer is liable to pay the compensation amount to the claimants/3rd parties when there is violation of terms and conditions of the policy?
2. Whether the Tribunal granted just compensation as entitled by the claimants? and
3. To what relief?

12. **POINT NO.1:**

It is not in dispute about the death of the deceased in the accident, involvement of crime lorry, rash and negligent driving of the crime lorry by its driver in causing the incident, the crime vehicle was validly insured with the 3rd respondent/insurer by the time of accident under Ex.B.1. It is also a fact that no appeal was preferred by the insurer, driver and owner of the crime lorry against the findings of the Tribunal.

13. The main contention raised by the learned counsel for the appellants/claimants is that even the 3rd respondent is able to prove that the deceased was traveling in the crime lorry as unauthorized passenger by the time of incident, the insurer is liable to pay the compensation amount to the claimants/3rd party at first instance then recover the same from the insured, when Ex.B.1 policy is in force by the time of incident. In support of the above contention, he relied upon a pronouncement of Hon'ble Supreme Court in ***Manuara Khatun v. Rajesh Kumar Singh***¹.

14. It is categorically proved before the Tribunal from the testimony of P.W.1 and R.W.1 coupled with Ex.A.1 that the crime lorry is not meant for transportation of passengers, but by the time of incident the deceased and others were travelling in the crime lorry as unauthorized passengers.

15. Now it is relevant to refer the certain observations made by the Hon'ble Supreme Court in ***Manuara Khatun case*** (referred to **supra**), by referring and relying on its earlier

¹ (2017) 4 SCC 796

pronouncement in ***National Insurance Company Limited v.***

Saju P.Paul², that :

“15.....This Court keeping in view the benevolent object of the Act and other relevant factors arising in the case, issued the directions against the Insurance Company to pay the awarded sum to the claimants and then to recover the said sum from the insured in the same proceedings by applying the principle of “pay and recover.

21. In view of the foregoing discussion, we are of the view that the direction to United India Insurance Company (Respondent No. 3) - they being the insurer of the offending vehicle which was found involved in causing accident due to negligence of its driver needs to be issued directing them (United India Insurance Co. Ltd. Respondent No.3) to first pay the awarded sum to the appellants (claimants) and then to recover the paid awarded sum from the owner of the offending vehicle (Tata Sumo) Respondent No.1 in execution proceedings arising in this very case as per the law laid down in Para 26 of *Saju P. Paul*'s case quoted supra.”
(emphasis supplied)

² (2013) 2 SCC 41

16. Having regard to the above categorical precedents, in view of the facts and circumstances of the case, since it is benevolent legislation and Ex.B.1 policy issued in respect of the crime lorry is in force by the time of incident, a direction can be issued against the insurer of the crime vehicle to pay the awarded sum to the claimants at first instance and then recover the same from the insured/owner/2nd respondent, because as stated supra the accident occurred only due to the rash and negligent driving of the crime vehicle by the 1st respondent/driver, resulted death of the deceased. Thus, this point is answered accordingly.

17. **POINT NO.2:**

Coming to the quantum of sentence entitled by the claimants is concerned, even the Tribunal came to the conclusion that the claimants entitled for compensation of Rs.9,66,000/-, when they restricted the claim for Rs.3,50,000/-, awarded the compensation as claimed by

them, which requires interference in the considered opinion of this Court.

18. In the present case on hand, it is not in dispute that by the time of incident the deceased was aged about 35 years. By considering the facts and circumstances, as claimed by the claimants, the Tribunal rightly taken the monthly national income of the deceased @ Rs.5,000/-. Thereby, the actual income of the deceased is rightly determined at Rs.60,000/- per annum.

19. As per the decision of the Constitution Bench of the Apex Court in ***National Insurance Company Limited v. Pranay Sethi***³, the deductions towards personal and living expenses of the deceased, held at Paragraph No.39 as follows:

39. Before we proceed to analyse the principle for addition of future prospects, we think it seemly to clear the maze which is vividly discernible from Sarla Verma, Reshma Kumari, Rajesh, and Munna Lal Jain. Three aspects need to be clarified. The first one pertains to

³ 2017 (6) ALT 60 (SC)

deduction towards personal and living expenses. In paragraphs 30, Sarla Verma lays down: -

“30. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra⁴, the general practice is to apply standardised deductions. Having considered several subsequent decisions of this (2003) 3 SLR (R) 601 Court, we are of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependent family members is 4 to 6, and one-fifth (1/5th) where the number of dependent family members exceeds six.”

20. As per the **Pranay Sethi case** (referred supra), in case the deceased was self-employed, an addition of 40% should be made if the age of the deceased was below 40 years.....
(emphasis supplied)

21. In the present case, as per the above-mentioned decision, 40% of actual income has to be added to the income of the deceased towards future prospects as the deceased is aged about 35 years by the date of incident, which is not in dispute. After adding 40% to the income of the deceased

towards future prospects her income is determined at Rs.84,000/- (Rs.60,000/- + Rs.24,000/-).

22. In the case on hand, when there are five claimants depending on the deceased, the deduction towards personal and living expenses of the deceased should be $1/4^{\text{th}}$ from the income of the deceased. Then the quantum is determined as Rs.63,000/-.

23. Regarding just compensation, in a decision of Hon'ble Supreme Court between **Sandeep Khanuja vs Atul Dande & Anr⁴**, at Paragraph Nos.11 and 12 held as follows :

11.....it is now a settled principle, repeatedly stated and restated time and again by this Court, that in awarding compensation the multiplier method is logically sound and legally well established. This method, known as 'principle of multiplier', has been evolved to quantify the loss of income as a result of death or permanent disability suffered in an accident.....

12..... While applying the multiplier method, future prospects on advancement in life and career

⁴ 2017 (3) SCC 315

are taken into consideration. In a proceeding under Section 166 of the Act relating to death of the victim, multiplier method is applied after taking into consideration the loss of income to the family of the deceased that resulted due to the said demise. Thus, the multiplier method involves the ascertainment of the loss of dependency or the multiplicand having regard to the circumstances of the case and capitalizing the multiplicand by an appropriate multiplier. The choice of the multiplier is determined by the age of the deceased or that of the claimant, as the case may be.....

..... there should be no departure from the multiplier method on the ground that Section 110-B, Motor Vehicles Act, 1939 (corresponding to the present provision of Section 168, Motor Vehicles Act, 1988) envisaged payment of 'just' compensation since the multiplier method is the accepted method for determining and ensuring payment of just compensation and is expected to bring uniformity and certainty of the awards made all over the country."..... (emphasis supplied)

24. The appropriate multiplier applicable to the age of the deceased i.e., 35 years is 16. The total loss of dependency is determined at **Rs.10,08,000/-** (Rs.63,000/- x 16).

25. On the point of the conventional heads, as per the judgment in *Pranay Sethi (supra)*, *Magma National Insurance Company Limited v. Nanu Ram @ Chuhru Ram and Ors.*⁵, *Smt. Anjali and Others v. Lokendra Rathod and Others*⁶, *United India Insurance Co. Ltd v. Satinder Kaur @ Satwinder Kaur and ors.*⁷ and *Rojalini Nayak and others v. Ajit Sahoo and others*⁸, this Court can award the enhanced amounts under the conventional heads of loss of estate, loss of consortium and funeral expenses. The claimants are also entitled for an amount of **Rs.1,45,200/-** towards loss of spousal, parental and filial consortium, towards funeral expenses **Rs.18,150/-** and towards loss of

⁵ (2018) 18 SCC 130

⁶ (2022) SCC OnLine SC 1683

⁷ (2022) SCC OnLine SC 1683

¹⁷ (2021) 11 SCC 780

estate **Rs.18,150/-**, respectively as was awarded in **Rojalini Nayak case** (referred to supra).

26. A brief exposition of the calculation made to arrive at the compensation is set out infra:

S.No.	Heads	Calculation
1	The annual income of the deceased.	Rs.60,000/- per annum
2	40% of above(1) to be added as future prospects	(Rs.60,000/- + Rs.24,000/-) Rs.84,000/-
3	1/4 th to be deducted as personal expenses of deceased.	Rs.63,000/-
4	Compensation arrived at on application of multiplier 16.	(Rs.63,000/- x 16) Rs.10,08,000/-
5	Spousal, Parental and filial consortium (wife, two children and parents)	Rs.1,45,200/- (Rs.48,400/- X 3)
6	Loss of estate	Rs.18,150/-

7	Funeral expenses	Rs.18,150/-
	Total compensation awarded(Rows 4+5+6+7)	Rs.11,89,500/-

27. Therefore, in view of the forgoing discussion, this Court is of the considered opinion that the award passed by the Tribunal warrants interference by **enhancing the compensation from Rs.3,50,000/- to Rs.11,89,500/-**. Thus, this point is answered accordingly.

28. **POINT NO.3:**

In view of the findings on point Nos.1 and 2, the order passed by the Tribunal warrants interference regarding quantum of compensation and liability to pay the compensation to the claimants by the 3rd respondent/insurer at first instance and then recover the same from the 2nd respondent/owner. As such, the appeal preferred by the appellants/claimants is liable to be considered partly.

29. In the result, M.A.C.M.A. is allowed in part to enhance the compensation from Rs.3,50,000/- to Rs.11,89,500/- with interest at 8% per annum, with costs, from the date of petition till the date of realization against the respondent Nos.1 and 2. However, the respondent No.3/insurer shall deposit the compensation amount before the Tribunal within two months from the date of this judgment before the Tribunal at first instance and then recover the same from the 2nd respondent/owner by filing execution petition. On such deposit, the claimant Nos.1 to 3 (wife and two children) are entitled to receive an amount of Rs.3,00,000/- each, claimant No.4 (father) is entitled to receive an amount of Rs.1,39,500/-, claimant No.5 is entitled to receive an amount of Rs.1,50,000/- and the claimant Nos.1, 4 and 5 are permitted to withdraw their respective shares with interest accrued thereon. The compensation awarded to the claimant Nos.2 and 3 shall be deposited in any Nationalized Bank till they attain majority by the Tribunal. The claimants are

directed to pay the deficit Court Fee before the Tribunal forthwith. The Tribunal shall proceed to pay the amount in the aforesaid terms, adjusting the amount, if any, already paid.

Interim orders granted earlier if any, stand vacated.

Miscellaneous petitions pending if any, stand closed.

Sd/- M SRINIVAS
ASSISTANT REGISTRAR

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SECTION OFFICER

To

1. The Motor Accident Claims Tribunal -cum- II Additional District Judge, Eluru, West Godavari District. **(with records if any)**
2. One CC to Sri Eluru Sesha Mahesh Babu, Advocate [OPUC]
3. One CC to Sri MRK Chakravarthy, Advocate [OPUC]
4. The Section Officer, VR Section, High Court of Andhra Pradesh at Amaravathi. **(to dispatch the trial court records)**
5. **Three CD Copies**

TK

HIGH COURT

DATED:19/03/2025

JUDGMENT + DECREE

MACMA.No.141 of 2022



ALLOWING THE MACMA IN PART