

APHC010510012021



**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: 45 of 2022

AND

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 514 OF 2021

M.A.C.M.A.No. 45 OF 2022

Between:

- 1.CHINTAKUNTA PADMAVATHI, W/O. CHINTAKUNTA UMAMAHESWARA REDDY, @ C.MAHESWARA REDDY, AGED ABOUT 36 YEARS, HINDU,. R/O. GUNDUPAPALA VILLAGE, DORNIPADU MANDAL, KURNOOL DISTRICT.
- 2.CHINTAKUNTA YUGANDHAR REDDY, S/O CHINTAKUNTA UMAMAHESWARA REDDY, @ C.MAHESWARA REDDY, AGED ABOUT 13 YEARS, MINOR, HINDU, R/O. GUNDUPAPALA VILLAGE, DORNIPADU MANDAL, KURNOOL DISTRICT. BEING MINOR, REP BY HIS NEXT FRIEND, NATURAL GUARDIAN MOTHER IE.1ST APPELLANT)
- 3.CHINTAKUNTA VENKATA RAMI REDDY, S/O. LATE ESWARA REDDY, AGED ABOUT 55 YEARS, HINDU, R/O. GUNDUPAPALA VILLAGE, DORNIPADU MANDAL, KURNOOL DISTRICT.

...APPELLANT(S)

AND

- 1.M SLI NAWAZ KHAN, S/O. JAYER HUSSIN KHAN, BANAGANAPALLI POST AND TOWN AND MANDAL, KURNOOL DISTRICT. (PHYSICAL OWNER OF TATA INDICA CAR BEARING NO. AP 21 AT

8249 UNDER AGREEMENT OF SALE DATED. 11.03.2014 EXECUTED BY ITS REGISTERED OWNER C. UMAMAHESWARA REDDY).

2.M/S NATIONAL INSURANCE COMPANY LTD, REP. BY ITS DIVISIONAL MANAGER, 40/344, 1ST FLOOR, TULA COMPLEX, GANDHI NAGAR, KURNOOL.

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Court to allow the above said appeal to set-aside the decree and order passed on 24.05.2021 in M.V.O.P.No. 258 of 2015 on the file of the Court of the Motor Accidents Claims Tribunal (V Additional District Judge) Allagadda and consequently award the compensation claimed by the appellants as prayed in the Appeal and pass

IA NO: 1 OF 2022

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 them to amend the claim amount from Rs 15,00,000/- to 20,16,000/- and such other order or orders as this Hon'ble Court may deems fit and proper in the circumstances of the case.

Counsel for the Appellant(S):

1.B S REDDY

Counsel for the Respondent(S):

1.KIRAN KUMAR BALIGAMSETTI

2.

M.A.C.M.A.NO: 514 OF 2021

Between:

1.NATIONAL INSURANCE CO.LTD,, REP BY ITS DIVISIONAL MANAER, 40/344, 1ST FLOOR,TULA COMPLEX, . GANDHI NAGAR, KURNOOL.

...APPELLANT

AND

- 1.CHINTAKUNTA PADMAVATHI, W/O CHINTAKUNTA UMA MAHESWARA REDDY @ C. MAHESWARA REDDY, AGED 36 YEARS,
- 2.CHINTAKUNTA YUGANDHAR REDDY, S/O CHINTAKUNTA UMA MAHESWARA REDDY @ C. MAHESWARA REDDY, AGED 13 YEARS,
- 3.CHINTAKUNTA VENKATA RAMI REDDY, S/O LATE ESWARA REDDY, (2ND RESPONDENT BEING MINOR REP. BY HIS MOTHER THE 1ST PETITIONER) ALL ARE R/O. GUNDUPAPALA VILLAGE AND POST, DORNIPADU MANDAL, KURNOOL.
- 4.M ALI NAWAZ KHAN, SIO. JAYER HUSSAIN KHAN, R/O. BANGANAPALLI POST AND TOWN AND MANDAL, KURNOOL DISTRICT.

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Court begs to prefer this memorandum of appeal being aggrieved by the decree and judgment passed in M.V.O.P No. 258 of 2015, dated 24-05-2021, on the file of Motor Accident Claims Tribunal -cum- V Additional District Judge at Allagadda, Kurnool District

IA NO: 1 OF 2021

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 grant stay of the execution of the Decree and judgment dated 24-05-2021 on the file of Motor Accident Claims Tribunal -cum- V Additional District Judge at Allagadda, Kurnool District passed in M.V.O.P No. 258 of 2015 pending disposal of the above appeal in the interest of justice and pass

IA NO: 1 OF 2022

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 petitioners herein to withdraw of their respective shares to the amount deposited by the 1st Respondent herein/Appellant as per the orders of this Hon'ble Court passed in I.A.No. 1 of 2021 in M.A.C.M.A.No. 514 of 2021, dated 20.10.2021 in the credit of MVOP No. 258 of 2015 on the file of the court of the Motor Accidents Claims Tribunal-cum-V Additional District Judge, Allagadda, and to pass such other

Counsel for the Appellant:

1.KIRAN KUMAR BALIGAMSETTI

Counsel for the Respondent(S):

1.B S REDDY

The Court made the following Common Judgment :

The Claimants preferred the M.A.C.M.A.No. 45 of 2022 under Section 173 of the Motor Vehicles Act 1988, (in short 'M.V.Act'), seeking enhancement of compensation aggrieved by the Award, dated 24.05.2021, passed in M.V.O.P.No.258 of 2015 on the file the Motor Accidents Claims Tribunal-cum-V Additional District Judge, Allagadda (in short 'the Tribunal).

The Insurance Company/ Respondent No.2 preferred the Appeal in M.A.C.M.A.No. 514 of 2021 under Section 173 of the Motor Vehicles Act 1988, (in short 'M.V.Act'), aggrieved by the Award, dated 24.05.2021, passed in M.V.O.P.No.258 of 2015 on the file the Motor Accidents Claims Tribunal-cum-V Additional District Judge, Allagadda (in short 'the Tribunal), wherein the Tribunal has awarded an amount of Rs.14,56,000/- to the Respondent No. 1 herein, as against the claim of Rs.15,00,000/- for the death of one Chintakunta Uma Maheswara Reddy @ C. Maheswara Reddy (hereinafter referred to as 'the deceased') in a road accident that occurred on 03/04.044.2014.

2. As both Appeals are preferred aggrieved by the same decree and judgment, this Court feels it appropriate to dispose of by way of a Common Judgment.

3. For the sake of convenience, both the parties in the Appeals will be referred to as they are arrayed in the Claim Petitions respectively.

4. The brief facts in both the Appeals are as follows:

On the intervening night of 03/04.04.2014 while the deceased was returning to Koilkunta after dropping his official at Hyderabad in a car bearing No. AP 21 AT 8249 at the request of Respondent No.1, when he reached near Sangam Milk Dairy, in between Banaganapalli – Koilkuntla Road, between 9.00 p.m to 8.00 a.m, the deceased lost control over the car and dashed the road side electric pole and ran into road side fields and received severe injuries and also burn injuries due to the short circuit of electric system of car and died. The Koilkunta Police registered a case in Crime No.457 of 2014. Hence, the Claimants are the legal representatives of the deceased filed the Claim Petition seeking compensation.

5. Before the Tribunal, the Respondent No.1 has remained exparte.

6. The Respondent No.1 filed counter denying the allegations made in the Claim Petition, *inter alia* contended that the accident occurred due to sheer negligence on the part of the driver and the compensation claimed by the Claimants are excessive and exorbitant.

7. Basing on the pleadings, the Tribunal framed the following issues for trial in M.V.O.P.No.258 of 2015.

“1. Whether the accident dt: 03/04.04.2014 occurred due to rash and negligent driving of driver of the TATA Indica Car bearing No. AP 21 AT 8249 as stated in the Petition?

2. Whether the Petitioners are entitled for compensation, as prayed for and from which of the Respondents?

3. To what relief?”

8. On behalf of the Claimants, P.Ws.1 to 3 were examined and Exs.A1 to A10 and Ex.X1 were marked. On behalf of Respondent No.2, RW-1 and 2 were examined and Ex.B1 to B4 were marked.

9. After hearing both parties and after considering the oral and documentary evidence on record, the Tribunal allowed the Claim Petition against Respondents, awarding compensation of Rs.14,56,000/- in M.V.O.P.No. 258 of 2015 with subsequent interest @ 7.5% per annum from the date of filing of the Petition till the date of realization and directed Respondents No.1 and 2 to deposit the said amount within one month from the date of the Award.

10. Aggrieved by the said award, the Respondents No.2 /Insurance Company preferred the Appeal in M.A.C.M.A.No. 514 of 2021 contending that the Tribunal failed to consider that there is clear violation with regard to policy condition that the deceased being the owner-cum-owner of the crime vehicle is not a third party. The Tribunal ought to have seen that the criminal case registered against the deceased was abated by the Judicial Magistrate of First Class, Allagadda was accorded permission by the police, as there was negligence on the part of the deceased. The Tribunal erred in considering the

alleged sale agreement, as the Claimants failed to examine the author and the attested witnesses of the alleged sale agreement and consequently failed to prove that the alleged sale agreement to be genuine and valid. The Tribunal ought to have fixed the liability of the Insurance Company to the extent of Ac. 2,00,000/- as the deceased has paid an additional premium of Rs. 200/- on the point of per annum and the deceased is the owner and not a third party of the offending vehicle. It is further contended that the compensation awarded by the Tribunal is exorbitant and excessive, therefore, prayed to allow the appeal.

11. On the other hand, learned counsel for the Claimants filed the Appeal challenging the impugned award by seeking enhancement of compensation.

12. Now the point for consideration is:

Whether the order of the Tribunal needs any interference?

POINT:

13. On perusal of the Award passed by the Tribunal, it can be observed that the Claimant No.1 being the wife of the deceased got examined herself as PW-1, who categorically deposed that on 03/04.04.2014 while the deceased was returning to Koilkuntla after dropping his official at Hyderabad in car bearing No. AP 21 AT 8249, at the request of Respondent No.1, when he reached near Sangam Milk Dairy, in between Banaganapalli – Koilkuntla road, between 9.00 a.m to 8.00 a.m, the deceased lost control over the car and dashed the road side electric pole and ran into road side fields and received

severe injuries and also burnt injuries due to short circuit of electric system of car and died due to electrocution.

14. In support of her contention, she got marked Ex.A8 and Ex.X1. PW-1 also got examined PW-2, who was working as DSP, Home Guards, Kurnool, who furnished salary particulars of deceased, which got marked Ex.X1. It reveals that the deceased was being paid an amount of Rs. 9,300/- per month at the rate of Rs. 300/- per day. Subsequently, the salaries for the home guards were revised to Rs. 12,000/- i.e Rs. 400/- per day and later enhanced to Rs. 18,000/- i.e Rs. 600/- per day. The Claimants also got examined PW-3, who is none other than owner of the vehicle i.e Respondent No.1 in the present case. PW-3 categorically stated that he purchased the car from the deceased. It is further stated that in the agreement of sale, there is a condition that he shall discharge the loan taken on finance by the executants from Mahindra Finance, Nandyal at Rs. 11,900/- in 40 monthly installments. He took the possession of the car under Ex.A8. He further deposed that he handed over the said car to the deceased to bring his superior officers from Hyderabad, while return journey as a driver of the vehicle, the deceased met with an accident and died. He also furnished Ex.A9 and Ex.A10, which are finance installments receipts to prove that he has been paying installments being the owner of the said vehicle.

15. The Tribunal considering the evidence of PWs 1 to 3, coupled with Ex.A1 and Ex.X1, in the absence of any cogent evidence adduced by the Respondents to that extent has held that the deceased cannot say that he is

owner cum-driver of the offending vehicle as on the date of accident and held that the deceased is a third party as on the date of accident and he also sold the same to RW-1, which is supported by Ex.A8, A9 and A10 held that the Respondent No.2 is liable to pay compensation to the Claimants.

16. In support of case of the Respondents, the Respondent/ Insurance Company got examined RW-1, who is authorized person of Respondent No.2, who stated that the said accident was occurred due to negligence on the part of the deceased and the being the driver-cum-owner of the car, he paid additional premium of Rs. 100/- under Insurance Policy. RW-2 also stated that the Respondent No.1 not approached the RTA Office for transfer of his vehicle in his name. But however, deposed that the deceased was not comes under owner-cum-driver. To substantiate their contention, the Respondent No.2 marked Exs.B1 to B4.

17. Coming to the quantum of compensation awarded by the Tribunal. The Claimants claiming compensation of Rs. 15,00,000/- for the death of the deceased. To substantiate the earning capacity of deceased, the Claimants stated that the deceased was earning Rs. 300/- per day. PW-2, who is DSP Home Guards, Kurnool placed Ex.X1, which proves that the deceased was earning Rs. 300/- per day as on the date of accident. Considering the evidence of PW-2, coupled with Ex.A6 and Ex.X1, the Tribunal has taken the monthly income of Rs.9,000/- per month and his annual income would come to Rs.1,08,000/-.

18. Though there are three dependants in the present case i.e wife and two children of the deceased, the Tribunal wrongly deducted 1/4th towards persons expenses of the deceased. This court is of the opinion that out of said amount only 1/3rd is to be deducted towards personal expenses and living expenses of the deceased, his monthly income would be at Rs. 6,000/- and net annual income of the deceased would come to Rs. 72,000/- (Rs.6,000/- x 12). As the deceased was aged 32 years, they also entitled the compensation under head of future prospects. As rightly pointed out by learned counsel for the Claimants, nothing has been awarded under the head of future prospects, if the same is added, the monthly income would come to Rs. 9,000/- x 12 (Rs. 1,08,000/-). After applying appropriate multiplier application to the age group of the deceased is '16', the loss of earnings would come to Rs.17,28,000/- (Rs.1,08,000/- x 16). Apart from the same, the Tribunal awarded Rs.1,00,000/- towards consortium; Rs.50,000/- towards special damages and Rs. 10,000/- towards funeral expenses, which needs no interference.

19. On perusal of the Award, it can be observed that the Claimant No.1 is wife and Claimants No. 2 and 3 are minor children of the deceased, they are also entitled Rs. 40,000/- towards loss of consortium. If the same is considered, the amount of Rs.1,00,000/- is enhanced to Rs. 1,20,000/- towards consortium.

20. The compensation awarded by the Tribunal under different heads and the amounts enhanced by this Court, are as follows:

S.No.	Head of the claim	Compensation awarded by the Tribunal	Amounts now enhanced by this Court
1.	Loss of dependency	12,96,000/-	17,28,000/-
2.	Loss of consortium	1,00,000/-	1,20,000/-
3.	Funeral expenses	10,000/-	10,000/-
4.	Special damages	50,000/-	50,000/-
	Total	Rs. 14,56,000/-	Rs.19,08,000/-

21. In the result, the appeal preferred by the Insurance Company in M.A.C.M.A.No. 514 of 2021 is dismissed. The appeal preferred by the Claimants in M.A.C.M.A.No. 45 of 2022 is allowed, while enhancing the compensation of Rs.14,56,000/- from Rs.19,08,000/- with interest at 7.5% p.a from the date of filing of the Petition till the date of realization. The Insurance Company is liable to pay compensation to the Claimants. 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.

22. Pending miscellaneous applications, if any, shall stand closed.

JUSTICE V.SUJATHA

Date: 20.04.2026

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