

**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI**

**Bench Sr.No:-50
[3584]**

APHC010569042017



I.A. No.1 of 2017 (X-OBJ 9803/2017)

IN/AND

**MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL
NO: 26 of 2017**

Bajaj Allianz General Insurance Co.ltd., ...Appellant

Vs.

Shaik Reshma 5 Others and Others ...Respondent(s)

**CORAM :THE CHIEF JUSTICE LISA GILL
SRI JUSTICE CHALLA GUNARANJAN**

DATE : 13th August 2026

Present:

Advocate for Appellant: T V SRI DEVI

Advocate for Respondent: NUTHALAPATI KRISHNA MURTHY

JUDGMENT: (per Hon'ble Sri Justice Challa Gunaranjan)

Both appeal of Insurer as well as cross-objections preferred by the claimants assailing the judgment and award dated 22.06.2016 in M.V.O.P. No.100 of 2014 passed by learned Principal District Judge, Prakasam at Ongole, are heard together and disposed by present common order.

2. MACMA No.26 of 2017 is preferred by insurer and whereas, I.A. No.1 of 2017 (X-OBJ No.9803/2017) is preferred by claimants seeking enhancement of compensation.

3. For convenience sake, the parties will hereinafter be referred to as they were arrayed before the Tribunal.

4. (a) Deceased aged 47 years was working as Line Inspector with Andhra Pradesh Southern Power Distribution Company Limited (A.P.S.P.D.C.L.). Deceased while crossing the road on his motorcycle to enter into a petrol pump, was hit by car bearing Registration No.AP 27TV 1117, which was proceeding from Podili towards Darsi. The deceased fell down in front of the car, he was dragged to some distance, on account of which sustained multiple injuries. He was shifted to Darsi Government Hospital and later to Sangamitra Hospital at Ongole and thereafter to Vijayawada for better treatment. He succumbed due to injuries on midnight of 04/05-06-2013. The deceased was drawing salary of ₹41,569/- per month, therefore, his wife, children and mother preferred claim seeking compensation of ₹60,00,000/-.

(b) Owner of offender vehicle filed written statement, inter alia, pleading that the bike of deceased came on wrong side to enter into the petrol pump against traffic rules, therefore, the accident

occurred on account of the negligence of deceased but not driver of the car. The 2nd respondent also filed written statement pleading *inter alia* that accident occurred due to negligence of deceased himself and that there was no negligence on the part of the driver of the car. It was further pleaded that deceased was riding the bike without wearing helmet and did not take proper precautions. Further, the driver of car also did not possess valid and subsisting driving licence, therefore, the same constituted violation of policy conditions. Thus, denied the liability. The age, income and avocation of deceased were also disputed.

(c) Basing on the above pleadings, Tribunal framed following issues:

1. Whether the deceased Shaik Ghouse Mohiddin died in a road accident which took place on 04.06.2013 at about 11.40 A.M. near Darsi Petrol Bunk on Podili-Darsi road, due to rash and negligent driving of the Car bearing No.AP 27TV 1117 by it's driver?
2. Whether the driver of the Car bearing No.AP 27TV 1117 is having valid and effective driving license at the time of the accident?
3. Whether the petitioners are entitled for compensation?
If so, to what amount and against whom?
4. To what relief the petitioners are entitled?

(d) Claimants examined P.W.1 to P.W.4 and marked Exs.A1 to A25 and Exs.X1 to X6. The respondents examined R.W.1 to R.W.3 and marked Exs.B1 to B4.

(e) The Tribunal, after appreciating the evidence on record, ultimately held that death of deceased was on account of road accident caused due to rash and negligent driving of driver of the car. The second issue was also answered in favour of claimants, holding that the insurer failed to adduce any evidence to substantiate that driver of offending vehicle did not possess valid and effective driving licence. The Tribunal assessed income of deceased @ ₹41,569/- based on salary payslip and after deducting the statutory components, the net income was assessed as ₹40,269/-. Future prospects were awarded at the rate of 30%, and 1/3rd of the same was deducted towards personal expenses. Tribunal considered age of deceased as 47 and applied multiplier of 13 and accordingly assessed loss of dependency. Tribunal also awarded ₹1,00,000/- towards loss of consortium, ₹1,00,000/- towards loss of estate and ₹25,000/- towards funeral expenses. In total, compensation of ₹56,69,296/-, rounded off to ₹56,70,000/-, was awarded payable along with interest at the rate of 9% per annum from the date of petition till realisation.

(f) Assailing the same, the insurer preferred present appeal. Even claimants also preferred cross objections dissatisfied with the compensation determined.

5. Heard Smt.T.V.Sridevi, learned counsel appearing for insurer and Sri N.Krishna Murthy and Sri A.Rama Krishna Reddy, learned counsel appearing for respondents.

6. (a) Learned counsel for insurer contended that though there was clear negligence attributable to the deceased rider, who crossed the road from east to west and tried to reach the petrol bunk, the Tribunal erred in not appreciating the said aspect, in particular the evidence of PW3, inmate of car and erroneously came to conclusion that the driver of offending car was alone responsible and negligent in causing the accident. Further, it is also contended that the Tribunal has awarded interest at the rate of 9%, which is on higher side.

7. (a) Per contra, learned counsel for claimants tried to sustain the findings of Tribunal with regard to the fixing of negligence and liability on the insurer. That apart, it is also contended that the Tribunal erred in deducting 1/3rd of income towards personal and living expenses rather than 1/4th as there were five claimants.

(b) It is also contended that the amounts awarded under various components of conventional heads are not in consonance with the dicta laid down by Hon'ble Apex Court in case of **National Insurance Company Limited v. Pranay Sethi and others**¹ and thus sought for reviving the same. Further, the interest awarded at the rate of 9% is sought to be justified.

8. We have given our anxious consideration to the submissions made by both parties and perused the record.

9. Now, the issue that arises for consideration of this Court is:

1. Whether in the facts and circumstances of the case, the compensation determined by Tribunal is just, fair and reasonable and the award suffers from any infirmity?
2. To what relief?

10. The insurer has raised specific plea that the deceased, while proceeding on motorcycle, when reached near petrol bunk to fill up petrol, crossed the road from east to west, violating traffic rules, therefore, he was solely responsible for causing the accident and the driver of offending car cannot be attributed with any negligence at all.

11. The claimants, on the other hand, pleaded that the driver of offending car came in a rash and negligent manner and dashed

¹ (2017) 16 SCC 680

the motorcycle, and even dragged the deceased for some distance, thus, the negligence was solely attributable to the driver of the offending car. In support of claimant's case, Ex.A1 – FIR, Ex.A3- inquest report, Ex.A6 - charge sheet, Ex.A7 - rough sketch were marked. P.W.2 - an eyewitness to accident was also examined, who stated that the offending car coming from Podili and proceeding towards Darsi has hit side of motorcycle, and the deceased fell down in front of the car, and dragged for some distance. As against aforesaid evidence, the insurer examined R.W.3-Tahsildar, who was travelling in the offending car. R.W.3 deposed that the deceased's bike intruded from wrong side and therefore, the car had hit the bike, as such, the deceased driver was at fault. The Investigating Officer, who recorded statement of R.W.3, deposed that negligence was attributable to driver of the car but not the deceased. In that background, Tribunal has come to conclusion that the evidence adduced on behalf of claimants was sufficient to pinpoint negligence on driver of the offending car.

12. Though learned counsel for insurer tried to emphasize the evidence of R.W.3, we do not see any reason to take a different view from that of the Tribunal. The claimants are merely to prove the occurrence of accident and negligence on the part of the

offending car driver on the touchstone of preponderance of probabilities, but not on the principle of beyond reasonable doubt. We, therefore, do not find any perversity in the findings recorded by the Tribunal.

13. Now coming to the aspect of quantum of compensation, there is no dispute regarding the income of deceased. Tribunal has assessed the net income of deceased as ₹40,269/- after deducting income tax and professional tax. The future prospects were awarded at the rate of 30%. However, Tribunal has deducted 1/3rd of the same towards personal and living expenses. Since there are four claimants, proper deduction would be 1/4th, therefore, the rate of deduction applied by Tribunal is modified. Further, we also deem it appropriate to revise various components of conventional heads in tune with the judgment in **Pranay Sethi's case**¹. The Tribunal has awarded interest at the rate of 9%, which is on higher side, therefore, the same stands revised to 7.5%. Thus, in all, the just and fair compensation payable stands revised as under:

Compensation Heads	Amount Awarded	In accordance with
Monthly Income	₹40,269/-	

Yearly Income	₹4,83,228/-	
Future Prospects (Age being 47 years)	30% of ₹4,83,228/- = ₹1,44,968/-	National Insurance Co. Ltd v. Pranay Sethi (2017) 16 SCC 680 Paras 37, 39, 41, 42 and 59.4
Deduction (1/4)	₹6,28,196/- - ₹1,57,049/- = ₹4,71,147/-	
Multiplier (13)	₹4,71,147/- x 13 = ₹61,24,911/-	
Loss of Income of the deceased	₹61,24,911/-	
Loss of Estate	₹18,150/- (with 10% increase every 3 years from 2017)	National Insurance Co. Ltd v. Pranay Sethi (2017) 16 SCC 680 Paras 37, 39, 41, 42 and 59.4
Loss of Funeral Expenses	₹18,150/- (with 10% increase every 3 years from 2017)	
Loss of Consortium	₹48,400/- x 4 = ₹1,93,600/- (with 10% increase every 3 years from 2017)	United Insurance Co.Ltd. v. Satinder Kaur (2021) 11 SCC 780 Para 37.12 Rajwati alias Rajjo and Ors v. United India Insurance Company Ltd. And Ors. 2022 SCC OnLine SC 1699 Para 34 Sadhana Tomar & Ors. Ashok Khushwaha & Ors. 2025 SCC OnLine SC 554 Para 17
Total	₹64,03,211/-	

14. In the result, the appeal preferred by Insurer in M.A.C.M.A.

No.26 of 2017 and cross-objections filed by claimants vide

I.A.No.1 of 2017 (X-OBJ No.9803/2017) are disposed of in the following terms:

- i) The claimants are granted revised compensation of **₹64,03,211/-** as just and fair, with interest @ 7.5% per annum thereon from the date of claim petition till realization;
- ii) The revised compensation shall be apportioned equally among claimants 1 to 4 only, as the 5th claimant died during enquiry before Tribunal.
- iii) The Insurer is directed to deposit the amount as aforesaid with interest and costs, adjusting the amount already deposited/paid, if any, before the Tribunal within one month.
- iv) On such deposit being made, the claimants are entitled to withdraw their respective shares as per the apportionment made above. There shall be no order as to costs.

As a sequel, miscellaneous petitions pending in this case, if any, shall stand closed.

LISA GILL, CJ

CHALLA GUNARANJAN, J

SS