



2025:TSHC:57018

[3448]

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

FRIDAY, THE FIFTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE JUSTICE B.R.MADHUSUDHAN RAO

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 1539 OF 2012

Appeal filed under Section 173 of Motor Vehicles Act against the order and decree in M.V.O.P. No. 85 of 2008 dated 27/05/2010 on the file of the Court of the Chairman, Motor Accident Claims Tribunal-Cum-I Additional District Judge, Karimnagar.

Between:

1. Sunkari Laxmi W/o. late Shankari, aged about 40 years, Occ: Household
2. Sunkari Srinivas, S/o.late Shankari, aged about 17 years, Occ: Student, Minor
3. Sunkari Mahesh, S/o.late Shankari, Aged about 16 years, Occ: Student
4. Adicharla Savithri, W/o. Late Rajaiah, aged about 35 years, Occ: Household
5. Sunkari RadhammaW/o Late Rayamallu [Died],

Appellant Nos. 2 and 3 are minors rep. by their natural Mother Appellant No.1Sunkari Laxmi.

All are R/o. Rathnapur, Kamanpur Mandal, Karimnagar District.

...APPELLANTS/PETITIONERS

AND

1. Nerella Bhaskar S/o.Mankaiah, Aged Major Occ: Owner of Auto Trolley Bearing No.AP 36 W 7699 R/o.H.No.11-23-9A, LB Nagar, Waragnal.
2. ICICI Lombard General Insurance Company Limited, represented by its Branch Manager, Warangal Branch, Warangal Town and District.

...RESPONDENTS/RESPONDENTS

Counsel for the Appellants: Sri A. V. K. S. Prasad

Counsel for the Respondent No. 1: Sri A. Veeresh Kumar

Counsel for the Respondent No. 2: Sri R. Sheetal Kumar

The Court delivered the following: JUDGMENT



2025:TSHC:57018

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

THE HON'BLE JUSTICE B.R.MADHUSUDHAN RAO

MACMA.No.1539 of 2012

DATED: 05th DECEMBER, 2025

Between:

1.Sunkari Laxmi and others

... Appellants/Petitioners

And

1.Nerella Bhaskar and another

... Respondents/Respondents

JUDGMENT

1. This memorandum of Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short 'MV Act') assailing the award passed by the Chairman, Motor Vehicle Accidents Claims Tribunal - cum - I Additional District Judge, Karimnagar (for short 'the Tribunal'), in O.P.No.85 of 2008 dated 27.05.2010.

2. Appellant Nos.1 to 5 herein are the petitioner Nos.1 to 5 and respondent Nos.1 and 2 herein are the respondent Nos.1 and 2 before the Tribunal. Appellant No.5 - petitioner No.5 died during pendency of O.P before the Tribunal.

3. Appellants - petitioners have filed a petition under Section 166(1)(C) of the MV Act claiming compensation of Rs.18,00,000/-



with interest at the rate of 18% per annum from the respondent Nos.1 and 2 on the death of Sunkari Shankar, in a road accident with auto rickshaw trolley bearing No.AP-36-W-7699.

4. Appellant No.1 – petitioner No.1 is the wife, appellant Nos.2 and 3 – petitioner Nos.2 and 3 are the children, appellant No.4 – petitioner No.4 is the widowed sister and appellant No.5 – petitioner No.5 is the mother of the deceased - Sunkari Shankar.

5. Sunkari Shankar was aged 42 years, was working as General Mazdoor, Godavarikhani 10 Incline R.G.-III area with a salary of Rs.15,094/- at the time of accident [01.01.2008], was also doing agriculture in the lands owned by him and earning an amount of Rs.60,000/- per annum.

6. On 01.01.2008 Sunkari Shankar left the house to attend second shift duty on his bicycle to 10 Incline. At about 03.00 p.m., while he was crossing 10 Incline main road and was proceedings on the extreme left side of the road, at that time auto rickshaw bearing No.AP-36-W-7699 belongs to respondent No.1 driven by its driver, came in opposite direction in a rash and negligent manner with high speed and dashed the bicycle of the Sunkari Shankar. Due to the said impact, Sunkari Shankar fell on the road, received head injury, brain came out and died at the spot. On the complaint lodged, a case in Crime No.1 of 2008 is registered against the



driver of the vehicle under Sections 304-A and 337 of IPC. Deceased - Sunkari Shankar was having 18 years of service and due to his sudden death, petitioners have suffered personal and emotional loss and also the dependency. The deceased would have earned Rs.32,60,304/- by the date of his retirement. As per the company Rules there is an increase in the salary for every five years as per the Wage Board Reports and thus, the appellants - petitioners claimed Rs.18,00,000/- towards compensation with interest at the rate of 18% per annum from the date of petition till the date of realization.

7. Respondent No.1 remained ex-parte before the Tribunal.
8. Respondent No.2 filed counter and denied the age, avocation and manner in which the accident has occurred. Further it is contended that driver of the crime vehicle do not posses valid driving licence at the time of accident, which amounts to the breach of terms and conditions of the insurance policy and the amount claimed by the appellants- petitioners is excessive.
9. The learned Tribunal has framed the following issues:
 1. Whether the accident had occurred due to rash and negligent driving of the vehicle bearing No.AP-36-W-7699 by its driver?
 2. Whether the petitioners are entitled to recover compensation and if so to what amount and from whom?
 3. To what relief?



10. Appellant No.1 - petitioner No.1 is examined as PW1, also examined PW2 - Udutha Bakkaiah (eye witness), PW3-Thati Uppaiaiah (eye witness) and PW4-B.Ramnarayana [clerk of GDK 10 incline] and got marked Exs.A1 to A8. Legal manager of respondent No.2 is examined as RW1 - K.Raghubabu and also examined RW2 - G.Prabhakar Reddy, Clerk, Regional Transport Office, Warangal and got marked Exs.B1 to B8.

11. The learned Tribunal after analyzing the evidence adduced by the parties awarded an amount of Rs.8,14,699/- with proportionate costs and interest at the rate of 7.5% per annum from the date of petition till actual deposit payable by respondent No.1 alone and the claim against respondent No.2 is dismissed.

12.1 Learned counsel for the appellants submits that the learned Judge did not consider the future revisions in salary of the deceased Sunkari Shankar though PW4 has categorically stated that for every five years there will be a revision in salary as per fixation of wage board and that the appellants are entitled for just compensation. The Tribunal erred in exonerating the respondent No.2 - insurance company from its liability in making payment of compensation to the appellants - petitioners on the ground that the driver of the offending vehicle did not possess valid driving



licence as on the date of accident [01.01.2018]. The learned Judge heavily placed reliance on the evidence of RW2 and Ex.A7 in concluding that the driver of the offending vehicle did not possess valid driving licence as on the date of accident. As a matter of fact RW2 stated that he has no record with him to verify whether the driver of the offending vehicle applied for conversion of his licence to transport licence from non transport licence or not.

12.2 The learned Tribunal ought to have directed respondent No.2 to first pay the compensation amount to the appellants - petitioners and recover the same from respondent No.1 instead of dismissing the claim petition against the respondent No.2 - insurance company and the learned Tribunal has awarded less amount, which requires to be enhanced. In support of his contentions, counsel has relied on the decisions in the cases of (i) Kalpanaraj and Others Vs. Tamil Nadu State Transport Corporation¹, (ii) Mona Baghel and Others Vs. Sajjan Singh Yadav and Others², (iii) Kulwinder Kaur and others Vs. Prashant Sharma and another³ and (iv) Sunita and others Vs. United India Insurance Company Limited and others⁴.

¹ (2015) 2 SCC 764

² 2022 LawSuit (SC) 1405

³ 2025 LawSuit (SC) 1077

⁴ 2025 LawSuit (SC) 964



13. Notice issued to respondent No.1 in the appeal is refused hence it is a deemed service.

14. Learned counsel for respondent No.2 submits that the learned Tribunal has rightly assessed the compensation, the appellants - petitioners are not entitled for enhancement of compensation, no interference is called for and prayed to dismiss the appeal.

15. Heard learned counsel on record and perused the material.

16. Now the points for consideration are:

- (i) Whether the appellants - petitioners are entitled for enhanced compensation?
- (ii) Whether the respondent No.2 is liable to pay the compensation first and then recovery the same from respondent No.1 [owner of auto trolley bearing No. AP-36-W-7699]?
- (iii) Whether the award passed by the learned Tribunal in O.P.No.85 of 2008 dated 27.05.2010 suffers from any perversity or illegality, if so, does it requires interference of this Court or not?

17. Learned counsel for the appellants - petitioners has filed calculation memo by serving copy on the learned counsel for respondent No.2.



18. The appeal is filed by the appellants -petitioners questioning the quantum of compensation and the liability of respondent No.2 also.

19. There is no dispute with regard to the manner in which the accident has occurred and the issue before this Court is with regard to enhancement of compensation and liability of respondent No.2.

POINT.No.1

20.1 The evidence of PW1 is that her husband was drawing an amount of Rs.15,094.89 towards salary per month, after his death they lost the support as her husband was the sole earning member of the family and the deceased was having 18 years of service.

20.2 In her cross-examination she stated that her husband was drawing more than Rs.15,000/- salary. She denied the suggestion that her husband was not contributing his salary towards maintenance of the family.

21.1 PW4 is the clerk of GDK-10 incline, GDK, his evidence is that the date of superannuation of the deceased is 31.10.2019. As per Ex.A4 the deceased salary is Rs.15,094.89 gross and as per December 2007 the deceased salary is Rs.13,211/- and the deductions are Rs.3,469/- from the total gross salary of



Rs.15,094.89 i.e., CMPF – Rs.1315/-, FPS Rs.142/-, RBPS.I – Rs.55/-, RBPS.2% - 218/-, FBIS – Rs.10/-, LIC – 1,709/- and Others Rs.20/- and the salary will be increased for every five years as per Wage Board Report.

21.2 In his cross-examination he denied the suggestion that Ex.A4 is a created document for the purpose of the case and also denied that there is no loss of income to the family of the deceased.

22. Legal Manager of respondent No.2 is examined as RW1, his evidence is that Ex.B1-policy conditions are violated. Evidence of RW2 is in respect of driving licence of Vijay Kumar K. It is apt to note here that appellants have challenged the quantum hence there is no dispute with regard to the manner in which the accident has occurred. Hence it is not appropriate to refer the evidence of RW1 and RW2 in detail.

23. The learned Tribunal computed the compensation and observed as under:

Coming to the case on hand, it is found the deceased was aged 48 years two months and his monthly income is Rs.11,462/- and therefore multiplicand comes to Rs.1,37,544/- (Rs.11,462/- x 12) by applying U/s.163-A read with second schedule, 2/3rd formula referred supra in the decision of Hon'ble Supreme Court, 2/3rd of his annual income comes to Rs.91,696/-, Since the deceased is aged 48 years two months, the multiplier applicable as per the above chart is



'13'. The amount comes to Rs.11,92,048/-, from this 1/3rd has to be deducted towards the personal expenditure of the deceased and the amount comes to Rs.7,94,699/- (Rs.11,92,048/- - 3,97,349/-). The compensation that would be payable to the petitioners under the head loss of life, loss of dependency is held 7,94,699. Apart from this amount, petitioner No.1 is entitled to Rs.5,000/- towards consortium, the petitioners No.2 and 3 being the minor children of the deceased are entitled to an amount of Rs.5,000/- towards loss of estate, the petitioners are further entitled to an amount of Rs.5,000/- towards funeral expenses and Rs.5,000/- towards transportation of dead body.

From the above assessment of the claims made, the following amounts are awarded under the specified heads:-

1.	Compensation for loss of life	Rs.	7,94,699-00
2.	Loss of Estate	Rs.	5,000-00
3.	Funeral Expenses	Rs.	5,000-00
4.	Transportation of dead body	Rs.	5,000-00
5.	Consortium	Rs.	5,000-00
TOTAL:		Rs.	8,14,699-00

24.1 In Kalpanaraj¹ Supreme Court observed that gross income of the deceased has to be taken while computing the compensation and future prospects is warranted.

24.2 In Mona Baghel² Supreme Court observed that the compensation can be enhanced and the award cannot be restricted.

24.3 In Kulwinder Kaur³ Supreme Court observed that future prospects have to be added in addition to establish income.



25. The learned Tribunal has taken the salary of the deceased as Rs.11,462/- after the deductions. In view of the decision of the Supreme Court in Kalpanaraj case¹ gross income of the deceased - Sunkari Shankar is taken as per Ex.A4 which is Rs.15,094.89 and the appellants - petitioners are also entitled for future prospects from the gross income of the deceased as per the decision stated supra and as per the decision in Kulwinder Kaur³. Though the appellants - petitioners have claimed Rs.18,00,000/- they are entitled for enhancement of compensation in view of the judgment of the Supreme Court in Mona Baghel². The age of the deceased - Sunkari Shankar is taken as 48 years and the dependents are 5 in number hence his personal deductions are taken as 1/4th of his income. The deceased falls within the age group of 46-50 hence appropriate multiplier is '13'. They are also entitled for loss of estate, funeral expenses, consortium which have to be enhanced at the rate of 10% in every three years as per National Insurance Company vs. Pranay Sethi⁵.

POINT NO.2:

26. Insofar as exonerating respondent No.2 is concerned the learned Tribunal observed as under:

"Coming to the aspect of liability on the respondents; since it is held in Issue No.1 that the accident had occurred due to the rash

⁵ (2017) 16 SCC 680



and negligent driving by the driver employed on the respondent No.1 auto rickshaw trolley, it is held the Respondent No.1 is liable to pay the compensation. There is no dispute and the Ex.B.1 policy would show the vehicle of R.1 was insured with Respondent No.2 and it covers third party risk, but the insurance company denied liability contending the driver employed on the said auto rickshaw trolley was not holding a valid and effective driving licence, and they have proved by examining their witnesses RW.1 and the witness from the RTA office RW.2 and by exhibiting Ex.B.2 extract of driving licence of the driver that the said driver was holding only a non transport driving licence whose extract was also brought by RW.2 to the court from the licencing authority Warangal that, the driver was holding only L.M.V non transport driving licence, whereas ne was found driving a transport vehicle auto rickshaw trolley.

I am afraid such a power is not invested in this Tribunal as that direction was given by their Lordship invoking Article 42 of Constitution, whereas this Tribunal has no such power to invoke the said article.

The above discussion leads to answer this aspect the issue, since there was breach of terms of policy by Respondent No.1 as the driver appointed by him was holding only a non transport driving licence, whereas he was found driving the offending vehicle which is a transport, commercial vehicle, hence, the insurance company is not liable to pay the compensation."

27. Respondent No.2 cannot be exonerated from the liability for violation of the policy where the driver of the crime vehicle who was holding light motor vehicle non transport driving licence. Pay and recover can be order as per the decision of the Supreme Court in Sunita⁴.

28. This Court is of the view that the respondent No.2 to pay the compensation first and recovery the same from respondent No.1.



29. The calculation arrived by this Court is as under:

Sl.No.	Name of the Head	Compensation awarded by this Court
1.	Income	Rs.15,094/- per month
2.	Add 30% future prospects (as per Pranay Sethi ⁵)	Rs.19,622/- [15,094 + 4,528] (15,094 x 30%) = 4,528
3.	Deduct 1/4 th personal expenses (as per Smt. Sarla varma v. Delhi Transport Corporation ⁶)	Rs.14,717/- [19,622 - 4,905] 1/4 th of 19,622 = 4,905
4.	Annual income	Rs.1,76,604/- (14,717 x 12)
5.	Multiplier '13'	Rs.22,95,852/- (1,76,604 x 13)
6.	Loss of estate	Rs.16,500/-
7.	Funeral expenses	Rs.16,500/-
8.	Consortium (for four persons)	Rs.1,76,000/- (Rs.44,000/- each)
	Total compensation	Rs.25,04,852/-

30. The learned Tribunal has awarded interest at the rate of 7.5% per annum, which has to be enhanced to 9% as per the decision in the case of Anjali and Others vs. Lokendra Rathod and others⁷.

31. In the result, MACMA.No.1539 of 2012 is allowed and the compensation awarded by the Tribunal is enhanced as under:

⁶ [(2009) 6 SCC 121]

⁷ 2022 SCC OnLine SC 1683



- a) The impugned award dated 27.05.2010, passed in O.P.No.85 of 2008, stands modified.
- b) The compensation awarded by the Tribunal i.e., Rs.8,14,699/- is enhanced to Rs.25,04,852/- together with interest at the rate of 9% per annum from the date of filing the petition till payment.
- c) The respondent No.2 is hereby directed to first deposit the awarded amount with interest and costs less the amount already paid if any within a period of 60 days from the date of receipt of a copy of this judgment and then recover the same from the respondent No.1 (owner of the vehicle).
- d) Appellants – petitioners are directed to pay Court fee on the enhanced amount.
- e) Appellant No.1 – petitioner No.1 is entitled for an amount of Rs.12,52,426/- and she is permitted to withdraw her entire amount with costs and interest thereon without furnishing security.
- f) Appellant Nos.2 and 3 – petitioner Nos.2 and 3 are entitled for an amount of Rs.5,00,970/- each with costs and interest thereon. As the appellant Nos.2 and 3 – petitioner Nos.2 and 3 are minors, their share



amounts shall be kept in fixed deposit in any nationalized bank till they attain majority.

- g) Appellant No.4 – petitioner No.4 is entitled for Rs.2,50,485/- and she is permitted to withdraw her entire amount with costs and interest thereon without furnishing security.

As a sequel miscellaneous application/s pending if any shall stand closed. No costs.

Sd/- M. JAWAHAR REDDY
ASSISTANT REGISTRAR

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SECTION OFFICER

To,

1. The Chairman, Motor Accident Claims Tribunal-Cum-I Additional District Judge, Karimnagar.
2. One CC to Sri A. V. K. S. Prasad, Advocate [OPUC]
3. One CC to Sri A. Veeresh Kumar, Advocate [OPUC]
4. One CC to Sri R. Sheetal Kumar, Advocate [OPUC]
5. Two CD Copies

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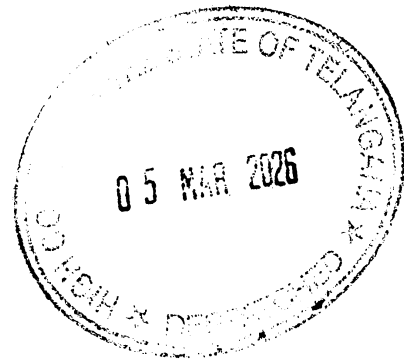
HIGH COURT

BRMR, J

DATED: 05/12/2025

JUDGMENT+DECREE

MACMA.No.1539 of 2012



**ALLOWED
WITHOUT COSTS**

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**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**FRIDAY, THE FIFTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE JUSTICE B.R.MADHUSUDHAN RAO

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 1539 OF 2012

Between:

1. Sunkari Laxmi W/o. late Shankari, aged about 40 years, Occ: Household
2. Sunkari Srinivas, S/o.late Shankari, aged about 17 years, Occ: Student, Minor
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4. Adicharla Savithri, W/o. Late Rajaiah, aged about 35 years, Occ: Household
5. Sunkari RadhammaW/o Late Rayamallu [Died],

Appellant Nos. 2 and 3 are minors rep. by their natural Mother Appellant No.1Sunkari Laxmi.

All are R/o. Rathnapur, Kamanpur Mandal, Karimnagar District.

...APPELLANTS/PETITIONERS

AND

1. Nerella Bhaskar S/o.Mankaiah, Aged Major Occ: Owner of Auto Trolley Bearing No.AP 36 W 7699 R/o.H.No.11-23-9A, LB Nagar, Waragnal.
2. ICICI Lombard General Insurance Company Limited, represented by its Branch Manager, Warangal Branch, Warangal Town and District.

...RESPONDENTS/RESPONDENTS

Appeal filed under Section 173 of Motor Vehicles Act against the order and decree in M.V.O.P. No. 85 of 2008 dated 27/05/2010 on the file of the Court of the Chairman, Motor Accident Claims Tribunal-Cum-I Additional District Judge, Karimnagar.

This appeal coming on for hearing and upon perusing the grounds of appeal, the Judgment and Decree of the Court below and the material papers in the case and upon hearing the arguments of Sri A.V.K.S. Prasad, Advocate for the appellants, Sri A. Veeresh Kumar, Advocate for the Respondent No. 1 and Sri R. Sheetal Kumar, Advocate for the Respondent No. 2.

This Court doth Order and Decree as follows:



2025:TSHC:57018

1. That the MACMA be and hereby is allowed by enhancing the compensation amount from Rs. 8,14,699 to Rs. 25,04,852/- together with interest at the rate of 9% per annum from the date of filing the petition till payment;
2. That the respondent No 2 be and hereby is directed to first deposit the awarded amount with interest and costs less the amount already paid if any within a period of 60 days from the date of receipt of a copy of this judgment and recover the same from the respondent No 1 (owner of the vehicle)
3. That the Appellant-petitioners be and hereby are directed to pay Court fee on the enhanced amount;
4. That the appellant No. 1-Petitioner No 1 be and hereby is entitled for an amount of Rs 12,52,426 and be and hereby is permitted to withdraw her entire amount with costs and interest thereon without furnishing security;
5. That the Appellant No. 2 and 3-Petitioners No 2 & 5 who are minors be and hereby are entitled for an amount of Rs 5,00,970/- each with costs and interest there on and their share amount shall be kept in fixed deposit in any nationalized bank till they attain majority;
6. Appellant No. 4-Petitioner No. 4 be and hereby is entitled for Rs 2,50,485 and be and hereby is permitted to withdraw her entire amount with costs and interest thereon without furnishing security;
7. That save as aforesaid, the decree of the Tribunal shall stand confirmed in all other aspects; and
8. That there shall be no order as to costs in this appeal.

Sd/- M. JAWAHAR REDDY
ASSISTANT REGISTRAR

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SECTION OFFICER

To,

1. The Chairman, Motor Accident Claims Tribunal-Cum-I Additional District Judge, Karimnagar.
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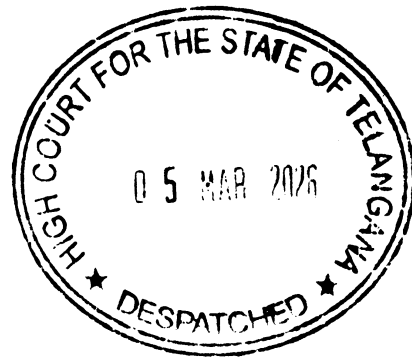


2025:TSHC:57018

HIGH COURT

BRMR, J

DATED: 05/12/2025



DECREE

MACMA.No.1539 of 2012

**ALLOWED
WITHOUT COSTS**

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