

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

FRIDAY, THE THIRTEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE JUSTICE B.R.MADHUSUDHAN RAO

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 628 OF 2015

Appeal filed under section 173 of Motor Vehicles Act, against the Judgment and Decree dated: 12.03.2015 passed in M.V.O.P.No- 196 of 2014 on the file of the Court of the Principal District Judge cum-Motor Accidents Claims Tribunal at Mahabub Nagar.

Between:

1. Gangapuram Bheemamma, W/o Late Gangapuram Sathyam, aged about 39 Yrs., Occ: Private Employee
2. Gangapuram Sravan, S/o Late Gangapuram Sathyam, aged about 21 Yrs., Occ: Student
3. Gangapuram Anusha, D/o Late Gangapuram Sathyam, aged about 20 Yrs., Occ: Student,
4. Gangapuram Laxmamma, W/o Gangapuram Venkataiah, age about 51 Yrs., Occ: Household,
5. Gangapuram Venkataiah, S/o Gangapuram, Narayana, aged about 56 Yrs., Occ: Nil,

All residents of Thimmarasi Pally village of Kalwakurthy Mandal, Mahabub Nagar District presently residing at Jadcherla Proper and Mandal, Mahabub Nagar District.

...APPELLANTS/CLAIM PETITIONERS

AND

1. Vijaya Agencies Pvt. Ltd., Rep., by B. Satyavathi W/o Late B. Murali Krishna, Major, Occ: Owners of The Innova Vehicle Bearing No AP-21-N-9999, R/o H.No 29-1-11, Seshadri Sastri Street, Governerpeta, Vijayawada. A.P.,
2. The New India Assurance Company Limited, rep., by Its Branch Manager, Opp: Modern High School, Mahabub Nagar.

...RESPONDENTS/RESPONDENTS

Counsel for the Appellant: Sri. Bajrang Singh Thakur

Counsel for the Respondents: None appeared

The Court delivered the following: JUDGMENT

THE HIGH COURT FOR THE STATE OF TELANGANA AT

HYDERABAD

THE HON'BLE JUSTICE B.R.MADHUSUDHAN RAO

MACMA.No.628 of 2015

DATED: 13th FEBRUARY 2026

Between:

1.Gangapuram Bheemamma and others

... Appellants- Claim petitioners

And

1.Vijaya Agencies Pvt., Ltd., Rep., by B.Sathyavathi
W/o. Late B.Murali Krishna, Major, Occ: Owner of
The Innova Vehilce bearing No.: AP-21-N-9999
R/o.H.No:29-1-11, Seshadri Sastri Street, Governerpeta,
Vijayawada, A.P. 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, 'the MV Act') assailing the award passed by the learned Principal District Judge – cum - Motor Accidents Claims Tribunal, Mahabubnagar, (for short 'the Tribunal') in M.V.O.P.No.196 of 2014, dated 12.03.2015.

2. Appellants are the petitioners and respondents are the respondents in the O.P.

3. Notices got issued to respondent Nos.1 and 2 in the appeal are served but none appeared for them.

4.1 Appellants – petitioners have filed claim petition under Section 166 of the MV Act claiming compensation of Rs.20,00,000/- with interest at the rate of 18% per annum from the date of the accident till the date of realization against the respondent Nos.1 and 2 jointly and severally for the death of G.Sathyam.

4.2 It is stated in the petition that on 26.03.2014 G.Sathyam in order to go to Hetero Pharmacy Company, SEZ Polepally, was proceeding on a Honda Activa motor cycle bearing No.AP-22-AJ-8691, when he reached Kaverammamet bus stop at about 11.30 hours and was turning towards Rajapur village, one Innova car bearing No.AP-21-N-9999 proceeding from Hyderabad towards Kurnool driven by its driver in a rash and negligent manner dashed the motor cycle of G.Sathyam, as a result G.Sathyam fell down sustained fatal injuries and died on the spot. G.Sathyam was aged about 43 years as on the date of accident, was working as Mason in Vijaya Ganapathi Food Processing Industries and earning an amount of Rs.10,000/- per month. On the complaint PS Jadcherla has registered a case in crime No.153/2014 under Section 304-A of IPC against the driver of the crime vehicle and prayed to allow the O.P as prayed for.

5.1 Respondent No.1 remained *ex parte* before the Tribunal.

5.2 Respondent No.2 filed counter and denied the age, income and the manner in which the accident has taken place. It is further contended that the driver of the crime vehicle do not possess valid driving licence as on the date of accident, the deceased G.Sathyam has contributed in causing the accident, the rider of the motor cycle was also not possessing valid driving licence as on the date of accident, that the owner and insurer of Honda Activa are also proper and necessary parties to the proceedings and prayed to dismiss the O.P.

6. The learned Tribunal has framed the following issues:

- I. Whether the accident occurred due to rash and negligent driving of the driver of the Innova vehicle bearing No.AP21 N 9999?
- II. Whether the petitioners are entitled to claim compensation? If so, to what amount?
- III. Whether the respondents 1 and 2 are liable to pay compensation?
- IV. To what relief?

7. Appellant No.1 – petitioner No.1 is examined as PW1, examined PW2 – N.Gopinath, examined PW3 - K.Manikandan and got marked Exs.A1 to A13. Respondent No.2 did not lead any evidence but marked Ex.B1 – copy of insurance policy of the crime vehicle.

8. The learned Tribunal after analyzing the evidenced adduced by the appellants – petitioners with that of the documents marked thereon has

arrived at Rs.7,64,800/-, as there is contributory negligence on the part of the deceased deducted 50% of the amount and arrived at a compensation of Rs.3,82,400/- with interest at the rate of 9% per annum from the date of petition [10.06.2014] till the date of deposit holding respondent Nos.1 and 2 to pay the same jointly and severally.

9. Learned counsel for the appellants – petitioners submits that the learned Tribunal has awarded meager amount towards compensation instead of allowing O.P in toto and erroneously arrived at a conclusion that the deceased has contributed the accident and deducted 50% is perverse. The Tribunal has taken the salary of the deceased as Rs.4,500/- instead of taking Rs.10,000/- per month, also failed to award future prospects and consortium to the appellants – petitioners. Counsel to substantiate his contention has relied on the decisions in the cases of (i) Dinesh Kumar J. Alias Dinesh J. vs. National Insurance Company Limited and others¹, (ii) Sucheta Mishra and others vs. Divisional Manager, National Insurance Company Limited² (iii) Saroj Devi and others vs. Narendra Singh and others³ and (iv) Savita Devi and Others vs. SBI General Insurance Company Limited and others⁴.

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

¹ (2018) 1 SCC 750

² 2023 ACJ 1993

³ 2023 ACJ 2026

⁴ Civil Appeal Nos.10053-10054 of 2024, dated 02.09.2024

11. Now the points for consideration are:

- i) Whether the appellants - petitioners were awarded just compensation, if so?
- ii) Whether the award passed by the learned Tribunal suffers from any perversity or illegality, if so does it require interference of this Court.

Point Nos.1 and 2:

12. Appellants - petitioners have challenged the contributory negligence arrived by the learned Tribunal and also the quantum of compensation in the appeal.

13. Insofar as contributory negligence is concerned, the learned Tribunal has observed in paragraph No.13, which reads as under:

“The petitioners failed to prove that the deceased was having valid driving licence to drive the motor cycle and as per the documentary evidence produced by the petitioners and also the oral evidence of PW2, it is clear that at the time of accident, the deceased tried to cross the road i.e., N.H.44 and so, he must take precaution while crossing the road by observing the coming vehicle from the side of Hyderabad towards Kurnool while crossing the road, as the vehicles on National Highway will be plying at high speed. As per the evidence produced by the petitioners, the accident occurred on the lane which is meant for the vehicles proceeding from Hyderabad towards Kurnool. So we can conclude that the deceased himself was negligent

while crossing the road at the time of accident. I am of the opinion that the drivers of the vehicles which were passing on N.H.44 must also be cautious at the places of crossing in villages. So, I am of the opinion that both the deceased and the driver of the crime vehicle contributed 50% negligence each in causing the accident. The issue is answered accordingly."

14. PW2 - N.Gopinath deposed that he is an eye-witness to the accident. On 26.03.2014 at about 11.30 hours, the deceased G.Sathyam tried to cross the road at Kaurampet bus stand on NH.44 at that time a Innova car bearing No.AP-21-N-9999 driven by its driver in a high speed, hit the deceased G.Sathyam, due to which he sustained head injury and died on the spot. In his cross - examination he denied the suggestion that he is not an eye-witness to the accident. PW2 is shown as circumstantial witness in Ex.A6 - C.C. of charge sheet.

15. Ex.A6 is the certified copy of the charge sheet filed under Section 304(A) of IPC against the driver of the crime vehicle. The charge sheet goes to show that it is the driver of the crime vehicle who drove the innova car in a rash and negligent manner with high speed and caused the accident.

16. The High Court Division Bench has placed a considerable degree of importance on the fact that there was no visible damage to the lorry but that it was the motorcycle which had suffered damage and that there

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was no eyewitness. It was correctly submitted that plea of contributory negligence was accepted purely on the basis of conjecture and without any evidence. Once the finding that there was contributory negligence on the part of the appellant is held to be without any basis, the second aspect which weighed both with the Tribunal and the High Court, that the appellant had not produced the driving licence, would be of no relevance. See: Dinesh Kumar¹.

17. Be that as it may, it is not in dispute that on investigation the charge-sheet has been filed against the rider of the offending vehicle. Therefore, the conclusion reached by the MACT only on the ground that it is a head-on collision and therefore 50 per cent of negligence is to be attributed to the deceased is not justified. See: Sucheta Mishra².

18. In Saroj Devi³ the Supreme Court held that fastening 50% of contributory negligence relying on the sketch of the accident spot and discharging the evidence of eye witness with that of the FIR is said to be incorrect.

19. The evidence of PW2 coupled with Ex.A1- CC of FIR with that of Ex.A2 - CC of crime details form coupled with Ex.A6 - CC of charge sheet goes to show that it is the driver of the crime vehicle who drove the same in a rash and negligent manner and caused the accident. The Tribunal erred in coming to a conclusion that the deceased and the

driver of the crime vehicle has contributed 50% negligence each in causing the accident is perverse and the same is liable to be set aside.

20. The Tribunal has taken the income of the deceased at Rs.4,500/- and the calculation arrived is as under:

Sl.No.	Name of the head	Compensation awarded by the Tribunal
1.	Income	Rs.4,500/- per month
2.	Annual income	Rs.54,000/-
3.	Deducted 1/5 th towards personal expenses	Rs.43,200/- 54,000 - 10,800 1/5 th of 54,000 = 10,800
	Contribution of the deceased to the family	Rs.43,200/-
4.	Multiplier '14'	Rs.6,04,800/-
5.	Loss of consortium to petitioner No.1	Rs.50,000/-
6.	Loss of love and affection to petitioner Nos.2 and 3	Rs.50,000/-
8.	Loss of love and affection of son to petitioner Nos.4 and 5	Rs.50,000/-
7.	Funeral expenses	Rs.10,000/-
	Total	Rs.7,64,800/-
	50% deduction towards contributory negligence	Rs.3,82,400/-

21. PW3 - K.Manikandan who is the partner in M/s.Vijaya Ganapati Food Processing Industries deposed that deceased G.Sathyam was working as a Mason in their company and used to pay Rs.10,000/- per month towards wages [Ex.A9 - salary certificate]. In his cross examination he stated that they were having work for 20 days minimum

in a month and they have not deducting any amount towards employees insurance scheme or towards provident fund and they are not maintaining acquittance register for the payment of wages to the Masons including the deceased as they were temporary workers.

22. The Tribunal has erred in taking the income of the deceased at Rs.4,500/- per month and disbelieved the evidence of PW3. The evidence of PW3 is sufficient to arrive at a conclusion that the earning of the deceased is Rs.10,000/- per month, hence this Court takes the income of the deceased at Rs.10,000/- per month.

23. The age of the deceased is shown as 43 years in the claim petition, the same age is also mentioned in Ex.A3 – C.C. of inquest panchanama and Ex.A4 – C.C. of post mortem report. Hence the Tribunal has rightly taken the age of the deceased as 43 years and rightly applied multiplier '14'. The Tribunal has not awarded future prospects to the appellants - petitioners and they are entitled for the same with that of consortium, loss of estate and funeral expenses as per the decision of the Supreme Court in National Insurance Company Limited Vs. Pranay Sethi and others⁵.

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

⁵ (2017) 16 SCC 680

Sl.No.	Name of the Head	Compensation awarded by this Court
1.	Salary	Rs.10,000/- per month
2.	Add 25% future prospects	Rs.12,500/- 10,000 + 2,500 25% of 10,000 = 2,500
3.	Deduct 1/4 th towards personal expenses (as per Smt.Sarla Verma and others vs. Delhi Transport Corporation and another ⁶)	Rs.9,375/- 12,500 - 3,125 1/4 th of 12,500 = Rs.3,125/-
4.	Annual income	Rs.1,12,500/- (9,375 x 12)
5.	Multiplier '14'	Rs.15,75,000/- 1,12,500 x 14
6.	Consortium Rs.48,000/- each	Rs.2,40,000/- 48,000 x 5
7.	Loss of estate	Rs.15,000/-
8.	Funeral expenses	Rs.15,000/-
	Total	Rs.18,45,000/-

25. The learned Tribunal has awarded interest at the rate of 9% per annum and the same need not to be disturbed, the same view is taken in Savita Devi⁴. Hence, points are answered accordingly.

26. In the result, MACMA.No.628 of 2015 is partly allowed and the compensation awarded by the Tribunal is enhanced as under:

a) The impugned award dated 12.03.2015, passed in M.V.O.P.No.196 of 2014, stands modified.

b) The compensation awarded by the Tribunal i.e., Rs.3,82,400/- is enhanced to Rs.18,45,000/- together with

⁶ (2009) 6 SCC 121

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BRMR,J
MACMA.No.628 of 2015

costs and interest at the rate of 9% per annum from the date of filing the petition till payment.

- c) The respondent Nos.1 and 2 are hereby directed to deposit the awarded amount jointly and severally 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.
- d) Appellant No.1 – petitioner No.1 is entitled for an amount of Rs.11,07,000/- and she is permitted to withdraw her entire share amount with costs and interest thereon without furnishing security.
- e) Appellant Nos. 2 to 5 – petitioner Nos.2 to 5 are entitled for an amount of Rs.1,84,500/- each and they are permitted to withdraw their entire share amount with costs and interest thereon without furnishing security.

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

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SD/- A.V.S.PRASAD
DEPUTY REGISTRAR

SECTION OFFICER

To

1. The Principal District Judge cum-Motor Accidents Claims Tribunal at Mahabub Nagar. (With Records)
2. One CC to SRI. Bajrang Singh Thakur, Advocate [OPUC]
3. Two CD Copies

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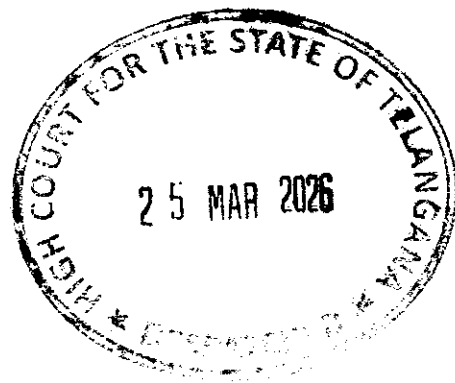


HIGH COURT

DATED: 13/02/2026

JUDGMENT

MACMA.No.628 of 2015



PARTLY ALLOWING THE MACMA

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

**FRIDAY, THE THIRTEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX**

PRESENT

THE HONOURABLE JUSTICE B.R.MADHUSUDHAN RAO

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 628 OF 2015

Between:

1. Gangapuram Bheemamma, W/o Late Gangapuram Sathyam, aged about 39 Yrs., Occ: Private Employee
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All residents of Thimmarasi Pally village of Kalwakurthy Mandal, Mahabub Nagar District presently residing at Jadcherla Proper and Mandal, Mahabub Nagar District.

...APPELLANTS/CLAIM PETITIONERS

AND

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2. The New India Assurance Company Limited, rep., by Its Branch Manager, Opp: Modern High School, Mahabub Nagar.

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Appeal filed under section 173 of Motor Vehicles Act, against the Judgment and Decree dated: 12.03.2015 passed in M.V.O.P.No- 196 of 2014 on the file of

the Court of the Principal District Judge cum-Motor Accidents Claims Tribunal at Mahabub Nagar.

This appeal coming on for hearing and upon perusing the grounds of appeal, the judgment and Decree of the Lower Court and the material papers in the case and upon hearing the argument of Sri. Bajrang Singh Thakur, Advocate for the Appellants and none appeared for Respondents.

This Court doth Order and Decree as follows:

1. That the Motor Accident Civil Miscellaneous Appeal be and hereby is Partly Allowed;
2. That the compensation awarded by the tribunal is enhanced;
3. That the impugned award dated 12.03.2015 passed in M.V.O.P.No. 196 of 2014 stands modified;
4. That the compensation awarded by the Tribunal i.e., Rs. 3,82,400/- be and hereby is enhanced to Rs. 18,45,000/- together with costs and interest at the rate of 9% per annum from the date of filing the petition till payment;
5. That the respondent Nos. 1 and 2 are hereby directed to deposit the awarded amount jointly and severally 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;
6. That the Appellant No.1 petitioner No.1 is entitled for an amount of Rs. 11,07,000/- and she is permitted to withdraw her entire share amount with costs and interest thereon without furnishing security;
7. That the Appellant Nos. 2 to 5 petitioner Nos.2 to 5 are entitled for an amount of Rs. 1,84,500/- each and they are permitted to withdraw their entire share amount with costs and interest thereon without furnishing security;
8. That Save as aforesaid, the decree of the tribunal shall stand confirmed in all other aspects; and

9. That there shall be no order as to costs in this appeal.

**SD/- A.V.S.PRASAD
DEPUTY REGISTRAR**

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SECTION OFFICER

To

1. The Principal District Judge cum-Motor Accidents Claims Tribunal at Mahabub Nagar.
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HIGH COURT

DATED: 13/02/2026

DECREE

MACMA.No.628 of 2015

PARTLY ALLOWING THE MACMA

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