APHC010688612010

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

Bench Sr.No:-3 [3584]

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 1913 of 2010

The New India Assurance Company Ltd. ...Appellant

Vs.

Dasari Anuradha and Others ...Respondent(s)

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Advocate for Appellant: GANESH PALADUGU

Advocate(s) for Respondent(s): SIVA RAMA KRISHNA KOLLURU

CORAM : THE CHIEF JUSTICE LISA GILL

SRI JUSTICE CHALLA GUNARANJAN

DATE : 30th June 2026

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

This appeal is preferred by appellant/Insurer under Section 173 of M.V. Act, assailing the judgment and order dated 24.02.2010 in M.V.O.P. No.424 of 2004, passed by learned II Additional District Judge, Visakhapatnam, by which the compensation for a sum of ₹41,00,000/- came to be awarded with proportionate costs and interest thereon @7.5% from the date of petition till the date of judgment.

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

3. Facts leading to filing of present appeal are as follows:

(a) One Mr.Dasari Pardhasaradhi, along with his friend Joginaidu and relative Sai Surendra were proceeding in Maruthi Van from Lankelapalem to Scindia for the purpose of distributing wedding invitations of his brother. They were also accompanied by Mr.Gururam Maheswararao and Saradi Satyanandarao, in another car following them behind. On 29.03.2002, at about 04.00 p.m., upon reaching Ramakrishnapuram Junction, gas tanker bearing number AP 16X 3649, which was proceeding in front of their car, had suddenly stopped on the road without following traffic rules. Resultantly, the Maruti Van, which was behind the gas tanker and being driven by Mr.Dasari Pardhasaradhi (herein after, referred to as 'deceased') dashed against the tanker and thereby both the deceased as well as one of his friends, due to severe injuries, succumbed thereto on the spot. Sai Surendra sustained injuries and was shifted to hospital for treatment.

(b) Mr. Gurram Maheswararao, who was following them in another vehicle, immediately lodged a report before concerned police and Crime No.39 of 2002 came to be registered for offences under Sections 304-A and 338 of IPC against the driver of the tanker. The police, upon investigation of the case, have eventually filed charge sheet against the driver of the tanker.

(c) The deceased studied B.E. Mechanical Engineering and underwent Marine Engineering apprenticeship and worked as Marine Engineer for some time at Bombay. At the time of accident, he was working as Engineer in a shipping company namely Anglo Eastern Management Limited, Hong Kong and was earning about $2428, equivalent to ₹1,09,260/-.

(d) At the time of accident, the deceased was aged about 33 years and was survived by wife and minor son. Deceased's wife, minor son, father and mother approached the Tribunal seeking compensation for a sum of ₹1,01,88,4000/-.

(e) Driver and owner of the tanker involved in accident, who were arrayed as respondents 1 and 2 remained *ex parte*. The insurer of tanker / 3rd respondent filed counter opposing the claim.

(f) It was pleaded firstly that even deceased himself contributed to the alleged accident as he had driven Maruti Van in a rash and negligent manner and thereby dashed into the tanker which was proceeding in front of the car. That apart, the income of deceased and age have also come to be denied and disputed.

(g) Further, it is also pleaded that as deceased claimed to be working for foreign company which was on contractual basis, the sum claimed was clearly unsubstantiated and exorbitant.

(h) Based on the aforesaid pleadings, the Tribunal has framed following issues:

1. Whether the accident occurred on account of the rash and negligent driving of the vehicle by its driver and whether it resulted in death of the victim?
2. Whether the petitioner is entitled for the compensation? If so, to what amount?
3. Which of the respondents are liable to pay the compensation?
4. To what relief?

(i) In support of the case, claimants have examined P.W.1 to P.W.6 and got marked Exs.A1 to A32 and X1. On the other hand, 3rd respondent – Insurer examined R.W.1 to R.W.3 and got marked Exs.B1 to B4.

(j) The Tribunal, upon appreciation of both oral and documentary evidence, has come to conclusion that the accident has occurred on account of the rash and negligent driving of the driver of gas tanker and that there was no negligence on the part of the deceased. Further, it was also held that the driver of tanker had valid driving license at the time of accident and therefore there was no violation of terms and conditions of policy for denying the liability.

(k) Finally coming to the aspect of quantum of compensation, upon appreciation of evidence on record has considered and fixed the monthly salary of deceased as ₹30,000/- and after deducting 1/3rd of it towards personal expenses and taking age of deceased as 33 years, adopted multiplier of 17 and ultimately determined loss of earnings for ₹40,80,000/-. Further, the Tribunal has awarded ₹15,000/- towards loss of estate in favour of 1st claimant and ₹5,000/- towards funeral expenses and thereby in total awarded compensation of ₹41,10,000/- along with interest @7.5% from the date of petition till the date of award. The respondents were held to be jointly and severally liable to pay aforesaid compensation. Of which, the 1st claimant – wife was held to be entitled to ₹20,00,000/- and 2nd claimant – minor son for ₹16,10,000/-, towards their share of compensation and 3rd and 4th claimants, parents of the deceased, were apportioned ₹2,50,000/- each.

(l) Assailing the award, insurer has preferred present appeal.

4. Heard Sri Ganesh Paladugu, learned counsel for appellant and Sri Siva Rama Krishna Kolluru, learned counsel for respondents.

5. Learned counsel for appellant mainly contended that the findings of the Tribunal in holding that there was no contributory negligence on the part of deceased is contrary to material evidence on record and thus the same suffers from perversity. Elaborating, he would contend that even as per the evidence of P.W.3 and P.W.4, who were eye witnesses to the incident, the Maruthi Van driven by deceased has dashed into gas tanker from behind, which itself clearly goes to suggest that the deceased himself was self-negligent in causing the accident. Therefore, the Tribunal ought not to have held that it was the driver of gas tanker, who alone was negligent in causing the accident. Except for the above, no other grounds have been urged challenging the quantum of compensation determined.

6. (a) Learned counsel for respondents/claimants, on the other hand, tried to support the order of Tribunal to the extent of findings, which held that there was no contributory negligence attributable to the deceased and that the driver of tanker alone was responsible for causing the accident. However, with respect to the quantum of compensation, he contends that inasmuch as there were 4 claimants, the Tribunal ought not have deducted

1/3rd towards personal expenses rather made deduction of 1/4th. Further, the Tribunal has also not awarded future prospects.

(b) Insofar as the income of deceased, learned counsel tried to persuade this Court that the amount of ₹30,000/- as determined by the Tribunal is far less and that there is no basis for the Tribunal to arrive at such meagre amount when the income has been clearly established to be ₹1,09,260/- under Ex.A5 - salary certificate, as corroborated by PW2 - Chief Engineer, who was working in Anglo Eastern shipping company. Therefore, he would urge that the compensation be appropriately modified taking into consideration the income as demonstrated under Ex.A5 and by making appropriate deduction of 1/4th of the same towards personal expenses, besides granting future prospects and other statutory benefits such as consortium etc., following the ratio laid down by Hon'ble Apex Court in **National Insurance Company Limited v. Pranay Sethi and others**[1].

(c) He also contented that respondent/claimants have not preferred independent appeal seeking enhancement of compensation nor filed cross objections to the appeal preferred by insurer, however, by placing reliance on judgment of

[1] (2017) 16 SCC 680

co-ordinate bench of this Court in ***The National Insurance Company Limited v. E.Suseelamma and others***[2], would urge this Court to determine just and fair compensation accordingly.

7. We have considered respective submissions made by respective counsels and also gone through the material on record.

8. The following points arise for our consideration:

> "1. Whether the Tribunal was right in holding that there was no contributory negligence on the part of the deceased and thereby, fixing entire liability on the insurer alone and whether the Tribunal has awarded just and fair compensation to the claimants/respondents in the light of the submissions advanced by the learned counsel for the parties?
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> 2. To what relief?"

9. The Tribunal, on appreciation of evidence, in particular, the eye witnesses to the accident i.e., P.W.3 and P.W.4, coupled with documentary evidence i.e., FIR – Ex.A1 and charge sheet – Ex.A30, has come to conclusion that the accident has occurred on account of negligence of driver of gas tanker alone and the deceased had no role in the process. The Tribunal also has found that in absence of any rebuttal evidence, in particular the driver of

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gas tanker, who is best witness to speak of the manner in which accident has occurred, discredited the plea of contributory negligence as set up by the insurer. The witnesses of Insurer, i.e., R.W.1 to R.W.3, who are Motor Vehicle Inspector and Administrative Officer, since were found to be not trustworthy witnesses to speak of the manner in which accident has occurred, the Tribunal has come to conclusion that there was absolutely no rebuttal evidence on aforesaid issue. The finding of Tribunal with regard to the aspect of negligence of the driver of tanker in causing the accident, in our opinion, is appropriate. In the absence of any other rebuttal evidence from the insurer, there is no reason for us to disbelieve the version of claimants/witnesses as rightly appreciated by the Tribunal. This issue, therefore, is answered against the insurer.

10. In **E.Suseelamma's case**[2], the Coordinate Bench of this Court, after analyzing various precedents on the subject, ultimately held that claimants/respondents are entitled for just compensation and the appellate court can always enhance the amount of compensation even in the absence of appeal or cross objections by such claimants.

11. Following the aforesaid view so expressed, we now proceed to examine the merits or otherwise of the quantum of compensation.

12. Learned counsel for respondents/claimants has taken us through the evidence of P.W.2 and Ex.A5 to buttress that the salary of ₹30,000/- as determined by Tribunal is far less and rather the salary ought to have been determined in commensurate with the evidence available on record. Dealing with the aforesaid aspect, the Tribunal upon appreciation of the evidence of P.W.2 and also the salary certificate marked under Ex.A5 has found that the deceased was not on permanent job, rather he was on contract basis working with a private company with a duration of 8 months in a year. Considering his engagement in overseas and vis-à-vis salary, the Tribunal has ultimately fixed his earnings reasonably at ₹30,000/- per month. It is also found that since the employment was not on permanent basis and there was no certainty of further engagement, the salary came to be reasonably assessed as above. We, therefore, do not intend to substitute with any other view than the one arrived at by the Tribunal, since the same is found to be reasonably fixed. However, as rightly contended by learned

counsel for claimants, the Tribunal has applied deduction of 1/3rd rather 1/4th towards personal expenses and ignored to grant future prospects. The Tribunal has also committed error in applying multiplier of 17 rather than it ought to have applied multiplier of 16 following the dicta laid down by Apex Court in **Sarla Verma v. Delhi Transport Corporation**[3]. We therefore modify the award in the following terms:

Compensation Heads	**Amount Awarded**	**In Accordance with:**
Monthly Income	₹30,000/-	
Yearly Income	₹3,60,000/-	
Future Prospects (Age being 33 years)	40% of ₹3,60,000/- = ₹1,44,000/-	**National Insurance Co. Ltd. V. Pranay Sethi** (2017) 16 SCC 680 Para 37, 39, 41, 42 and 59.4
Deduction (1/4)	5,04,000 – 1,26,000 = ₹3,78,000/-	
Multiplier (16)	3,78,000 x 16 = ₹60,48,000/-	
Loss of Income of the deceased	**₹60,48,000/-**	
Loss of Estate	**₹18,150/-** (with 10% increase every 3 years from 2017)	**National Insurance Co. Ltd. V. Pranay Sethi** (2017) 16 SCC 680 Para 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 India Insurance Co. Ltd. V. Satinder Kaur,** (2021) 11 SCC 780 Para 37.12 **Rajwati alias Rajjo and Ors v. United India Insurance**

[3] (2009) 6 SCC 121

		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	**₹62,77,900/-**	

13. In the result, MACMA filed by the insurer is dismissed, however, compensation is enhanced over and above granted by the Tribunal to the claimants as just and fair compensation in the following terms:

i) The claimants/respondents are granted enhanced compensation of ₹62,77,900/- as just and fair, with interest @ 7.5% per annum thereon from the date of claim petition till realization;

ii) Out of the enhanced compensation amount, 1st petitioner/wife of the deceased is entitled to a sum of ₹30,00,000/-, 2nd petitioner/son of deceased is entitled to a sum of ₹25,00,000/- and 3rd and 4th petitioners/father and mother of deceased are entitled to a sum of ₹3,88,950/- each.

iii) The appellant 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 shall be entitled to withdraw the same in the proportion as per the award, failing which, the amount shall be recovered as per law.

14. With the above observations, the present appeal stands disposed of. No costs.

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

LISA GILL, CJ **CHALLA GUNARANJAN, J**

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