

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADES**

M.A.C.M.A. No.1240 of 2009

Between:

Smt. K. Ananthamma
And others.
Appellants

....

AND

Sri C. Niranjan
and another.
Respondents

....

DATE OF JUDGMENT PRONOUNCED: **31.07.2015**

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

1. Whether Reporters of Local Newspapers
may be allowed to see the judgments? Yes / No
2. Whether the copies of judgment may be
marked to Law Reporters / Journals? Yes / No
3. Whether Their Lordship wish to
see the fair copy of the Judgment? Yes /
No

THE HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

M.A.C.M.A. No.1240 of 2009

JUDGMENT:

Challenging the Award dt:09.01.2009 in O.P.No.1569 of 2007 passed by the Chairman, MACT-cum-III Additional Chief Judge, City Civil Court, Hyderabad(for short “the Tribunal”), the claimants preferred the instant appeal.

2 a) On factual side, on 13.12.2006 at about 7.00p.m, after completion of the electrical labour work when the deceased— K.Ramulu and other labourers were standing before LIC office, Kalwakurthy, suddenly one Auto Trolley bearing No.AP 29 U 1497 came at high speed and in a rash and negligent manner and dashed them. As a result, the deceased sustained grievous injuries and was shifted to Hospital immediately and while undergoing treatment in Osmania General Hospital, Hyderabad he succumbed to injuries on 16.12.2006. It is averred that due to sudden demise of the deceased, the claimants lost their breadwinner and became destitutes. With these averments, the claimants filed O.P.No.1569 of 2007 under Section 166 of Motor Vehicles Act, 1988 (for short “MV Act”) against respondents 1 and 2, who are the owner and insurer of the offending Auto and claimed Rs.4,00,000/- as compensation.

b) Respondent No.1/owner remained *ex parte*.

c) Respondent No.2/Insurance Company filed counter denying all the material averments made in the petition and urged

to put the claimants in strict proof of the same. R.2 further denied the age, avocation and income of the deceased. R.2 contended that there was no rash and negligent driving on the part of the driver of the crime vehicle but the accident was occurred due to negligence of the deceased. R2 finally contended that claim is excessive and prayed for dismissal of O.P.

d) During trial, PWs.1 and 2 were examined and Exs.A1 to A5 were marked on behalf of claimants. RW1 was examined and Exs.B1 to B3 were marked on behalf of 2nd respondent.

e) The Tribunal on appreciation of both oral and documentary evidence on record, has awarded total compensation of Rs.2,40,000/- with costs and interest at 7.5% p.a. against respondents 1 and 2 under different heads as follows:

Loss of earnings	Rs.2,26,000-00
Loss of consortium	Rs. 14,000-00

Total	Rs.2,40,000-00

Hence, the appeal by claimants.

3) The parties in this appeal are referred as they stood before the Tribunal.

4) Heard arguments of Smt.A.Chaya Devi, learned counsel for appellants/claimants and Sri Ravi Shankar Jandhyala, learned counsel for respondent No.2/ Insurance Company. Notice sent to R.1 was unserved.

5 a) Criticizing the compensation as low, learned counsel for

appellants firstly argued that the Tribunal erred in taking the multiplier as '9.39'. Having regard to the age of deceased as 46 years, the correct multiplier as per the decision of Hon'ble Apex Court reported in **Smt. Sarla Verma vs. Delhi Transport Corporation**^[1] is '13' and so compensation may be computed accordingly.

b) Secondly, she argued that no compensation was awarded for funeral expenses and therefore, suitable amount may be awarded in that regard.

c) Thirdly, learned counsel argued that low amount was awarded for loss of consortium and same may also be enhanced.

6) Per contra, learned counsel for 2nd respondent/Insurance Company supported the award and prayed for dismissal of the appeal.

7) In the light of above arguments, the point for determination in this appeal is:

“Whether the compensation awarded is just and reasonable or needs interference?”

8) **POINT:** The accident, involvement of the auto bearing No.AP 29 U 1497 and death of deceased are all admitted facts. The bone of contention is only the quantum of compensation. The deceased was aged 46 years which is evident from Exs.A.3 and A.4. As argued by the learned counsel for appellants, the multiplier for the persons in the age group of 46—50 is '13' as laid

down in **Smt. Sarla Verma's** case (1 supra). Hence compensation for loss of dependency comes to **Rs.3,12,000/-** (Rs.3,000/- x 12 x 13 x 2/3rd).

9) The Tribunal has not awarded any compensation for funeral expenses. Hence **Rs.10,000/-** is awarded in this regard.

10) Having regard to the fact that the deceased died in his middle age but not in the prime of his youth, compensation of **Rs.14,000/-** for loss of consortium is found to be reasonable. Thus the total compensation payable to the claimants is detailed as below:

Loss of earnings	Rs.3,12,000-00
Loss of consortium	Rs. 14,000-00
Funeral expenses	Rs. 10,000-00

Total	Rs.3,36,000-00

So at the outset, the compensation awarded by the Tribunal is enhanced by Rs.96,000/- (Rs.3,36,000/- minus Rs.2,40,000/-).

11) In the result, this M.A.C.M.A is partly allowed and ordered as follows:

- a) The compensation is enhanced by **Rs.96,000/-** with proportionate costs and simple interest @ 7.5% per annum from the date of OP till the date of realization.
- b) The respondents 1 and 2 are directed to deposit the compensation amount within two months from the date of this judgment, failing which execution can be taken out against them.

As a sequel, miscellaneous applications pending, if any,

shall stand closed.

U. DURGA PRASAD RAO, J

Date: 31.07.2015
scs

[\[1\]](#) 2009 ACJ 1298 (SC) = AIR 2009 SC 3104