

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

**FRIDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY ONE**

**PRESENT
THE HONOURABLE SRI JUSTICE P. NAVEEN RAO
AND
THE HONOURABLE SMT JUSTICE P.SREE SUDHA**

M.A.C.M.A. NO: 1725 OF 2014

Appeal under Section 173 of M.V.Act, against the Order and decree made in MVOP. No.158 of 2013 dated 01/10/2013 on the file of the Court of the Chairman, Motor Accidents Claims Tribunal –cum- Principal District Judge, Medak at Sangareddy.

Between:

M/s. Reliance General Insurance Company Ltd., Rep by its Branch Manager, Deccan Chambers, 4th Floor, Somajiguda, Hyderabad. (Policy No.1807422311001313 valid from 28.12.2012 to 27.12.2013)

...APPELLANT/R2

AND

1. Bommakanti Bhumalingam, S/o Buchaiah, Occ:- Employee in A.P.C.P.D.C.L., R/o H.No.15-27 LIG APHB Pothireddypally, Sangareddy Mandal, Medak District.
2. Bommakanti Ramyakrishna, D/o Bhumalingam, (W/o G. Naresh), Occ:- Housewife, R/o H.No.15-27 LIG APHB Pothireddypally, Sangareddy Mandal, Medak Dist.
3. Bommakanti Archana, D/o B.Bhumalingam, Occ:- Student, R/o H.No.15-27 LIG APHB Pothireddypally, Sangareddy Mandal, Medak District.
4. Mr. Pradeep Bothukurwar, S/o not known to the petitioner, Occ:- Owner of Maruthi Swift Dzire AP-01-AA-0007, R/o H.No.4-3-229/5, Bhukthapur Village, Adilabad District -504001.

...RESPONDENTS/PETITIONERS 1 TO 3 & R1

**For the Appellant : SRI V.SATYAM REDDY, SENIOR ADVOCATE FOR
SRI.N.MOHAN KRISHNA, Advocate**

For the Respondent Nos.1 to 3 : SRI M.KIRAN REDDY, Advocate

For the Respondent No.4 : SRI T.V.RAMANA RAO, Advocate

The Court delivered the following: JUDGMENT

**HON'BLE SRI JUSTICE P. NAVEEN RAO
AND
HON'BLE SMT. JUSTICE P. SREE SUDHA
MACMA No. 1725 of 2014**

JUDGMENT

[per Justice P. Sree Sudha]

1. This appeal is preferred by Reliance General Insurance Company Limited, appellant/respondent, aggrieved by the decree and judgement dated 01.10.2013, passed in M.V.O.P. No.156 of 2013 on the file of the Chairman, Motor Vehicle Accidents Claims Tribunal-cum-Principal District Judge, Medak at Sangareddy (hereinafter referred to as 'the Tribunal').

2. The said M.V.O.P. was filed under Section 166 of the Motor Vehicles Act, by the original petitioners (Respondent Nos.1 to 3 herein) seeking a compensation of ₹40,00,000/- on account of the death of Smt.Dontula @ Bommakanti Nagamani, in a Motor Vehicle accident that occurred on 26.01.2013; from the owner and insurers of the crime vehicle that caused the accident.

3. The deceased was working as a L.D. Stent in DRDA, drawing a monthly salary of ₹24,706/- besides doing the household chores for her family. The deceased and her husband (Respondent No.1- Petitioner No.1) were returning to Sangareddy, from Ganesh Temple, Rudrarani, on a scooter driven by the husband on 26.01.2013 and met with an accident when it crossed the road, due to the rash and negligence driving of the driver of a car bearing No. AP 01 AA 0007, which hit the scooter at its rear side, as a result of which, the deceased pillion rider fell down and died on the spot. On the date of the incident, the deceased was aged about 48 years. Due to the incident the Petitioners, who are the husband and children of the

deceased herein filed a claim petition seeking compensation of ₹40,00,000/-. The Tribunal after appreciation of entire oral and documentary evidence on record awarded compensation of ₹37,54,000/- with interest @ 8% p.a. from the date of petition, till the date of deposit.

4. The calculation made by the tribunal in reaching the said award is reflected in the table below.

Age of the deceased	48 years
Years of service remaining	10 years
Gross income of the deceased	₹ 24,706/- p.m.
Net income of the deceased, including EPF	₹ 23,935/- p.m.
Future Prospects (Considered New India Assurance Co. v. Gopali wherein 100% was granted)	50%
Neutralized future salary	₹ 35,902/- p.m.
Deduction towards personal expenses	1/3
Loss of income to the family (multiplied)	₹ 23,935/- p.m. ₹ 2,87,220/- p.a.
Multiplier applied	13
Loss of future income (Multiplier Multiplied)	₹ 37,33,860/-
Funeral Expenses	Not awarded
Loss of estate	Not awarded
Loss of consortium for P1	₹ 10,000
Loss of love and affection for P2&3	₹ 5,000 each ₹ 10,000
Total Compensation (rounded off)	₹ 37,53,860/- ₹ 37,54,000/-

5. The learned counsel for the appellant herein mainly contended that the crime vehicle is a non-transport vehicle, but at the time of the accident, it was being used for hire for carrying passengers,

which is a clear violation of the terms and conditions of the policy, hence the appellant insurance company would not be liable to pay the compensation.

6. The counsel for appellant also contended that the tribunal failed to consider the evidence of RW-1, a senior executive of the insurance company, who stated that B. Sailesh, who is the son of R4 herein, gave a statement to the Patancheru Police that the crime vehicle was a private car, but was being used for hire purpose. It is contended that the same is in violation of the terms and conditions of the policy as the vehicle was used for transport purpose and hence the insurance company would not be liable to pay compensation.

7. The appellants also contended that the Tribunal erred in considering the future prospects of the deceased at 50%, instead of 30%. The learned counsel relied on **SARALA VERMA V/s. DELHI TRANSPORT CORPORATION**.

8. The appellants submitted that the tribunal wrongly granted an interest @ 8% p.a. and that the proper interest rate would be 6% p.a. as per **SARALA VERMA** (supra).

9. The appellants placed reliance on the statement of RW-1 being ignored by the Tribunal. It is observed that in the chief, RW-1, who is a senior executive of the insurance company, stated that on B. Sailesh, son of the fourth respondent, gave a statement to the Police that on the date of accident, the car was sent for hire from Adilabad to Hyderabad and from Hyderabad to Pune and when the car was returning from Pune and reached Medak, the accident occurred. The crime vehicle is a private car, which was being used for

2009/07/11/18

the Five Judge Bench of the Hon'ble Apex Court in **NATIONAL INSURANCE COMPANY LIMITED V/s. PRANAY SETHI**³. According to the settled law, the future prospects to be granted to a person aged between 40 to 50 years, with a permanent job would be 30%, as rightly urged by the learned counsel for the appellant. Hence, the Tribunal has erred in granting future prospects @ 50% and the future prospects should be granted @ 30% in this case.

12. Coming to the calculation of the compensation amount by the Tribunal. It is to be said that the Tribunal grossly erred in not granting funeral expenses and loss of estate and in granting loss of consortium at ₹10,000/- to the husband and in granting loss of love and affection to the children. It is the settled position of law as laid down by the Apex Court in **PRANAY SETHI** (supra), which fixed the amounts for conventional heads at ₹16,500/- for funeral expenses, ₹16,500/- for loss of estate and ₹44,000/- as loss of consortium (enhanced in 2020) and as such the same shall be granted in the current case, instead of the amounts granted by the Tribunal. Under these conventional heads, a total of ₹1,65,000/- is granted to the deceased. With regards to grant of loss of love and affection, a recent Three Judge Bench of the Hon'ble Apex Court, in **UNITED INDIA INSURANCE COMPANY LTD. V/s. SATINDER KAUR**⁴, has been laid down that "The tribunals and High Courts are directed to award compensation for loss of consortium, which is a legitimate head. There is no justification to award compensation towards loss of love and affection as a separate head."

³ (2017) 16 SCC 680

⁴ AIR 2020 SC 3076

transport purpose, and hence, R4 violated the terms and conditions of the policy and is alone liable to pay the compensation. He also filed Ex.B1 - policy and Ex.B2 - attested copy of the statement of B.Sailes. It is observed that no notice was issued to R4 and R4 didn't give any statement to the police. The Tribunal considered the evidence and observed that the policy shows the name of Pradeep Bothukurwar as the owner of the car, and as such statements of third parties, even if they are to be the son of the owner, cannot be taken as proof regarding the nature of use of the car. The appellant failed to examine the fourth respondent before the Tribunal and hence the contentions of the appellants in this regard were not accepted and they were held to be vicariously liable.

10. This Court finds no reason to interfere with the said finding of the Tribunal, which was derived after thoroughly considering all the evidence on record and the insurance company cannot be exonerated from the liability.

11. Another issue raised by the appellant which is to be considered is with regard to grant of future prospects. The age of the deceased herein is not in dispute and she was aged 48 years at the time of the accident. The Tribunal placed reliance upon a judgment of this Court in **NEW INDIA ASSURANCE COMPANY V/s. GOPALI**² wherein the deceased had 22 years of service left and the Court awarded a 100% increase in the income. As in the case on hand, the victim had 10 years of service left, the Tribunal granted 50% as future prospects. The position of law concerning grant of future prospects is not *res integra*. The position laid down in **SARALA VERMA** (supra), which has been relied upon by the appellants, has also gotten approval of

² 2012 ACJ 2121

13. The calculation of compensation is drawn out in the table below:

Net Income of the Deceased	₹ 23,935/- p.m.
Future Prospects	30% ₹ 31,115.50/- p.m.
Deduction towards personal expenses	1/3 ₹ 10,371/- p.m.
Loss of income to the family (multiplicand)	₹ 20,744/- p.m. ₹ 2,48,924/ p.a.
Multiplier	13
Loss of dependency (Multiplicand*Multiplier)	₹ 32,36,012/-
Funeral Expenses	₹ 16,500/-
Loss of Estate	₹ 16,500/-
Loss of Consortium for R1-R3	₹ 44,000/- each ₹ 1,32,000/-
Total Compensation	₹ 34,01,012/-

14. As seen from the table, the total compensation for the claimants comes to ₹ 34,01,012/-. Learned counsel for the appellants has disputed the interest rate imposed by the Tribunal. In order to determine the interest rate to be granted, we shall refer to the interest rate granted by the Supreme Court in its recent Judgements for Motor Vehicle Accident awards. In the case of **RASMITA BISWAL V/s. DIVISIONAL MANAGER, NATIONAL INSURANCE COMPANY LTD.**⁵ the Hon'ble Apex Court granted an interest of 7.5%. In another case before the Supreme Court, **N.JAYASREE V/s. CHOLAMANDALAM MS GENERAL INSURANCE COMPANY LTD.**⁶ the interest granted was 7.5% as well. By placing reliance on these recent judgements of the Supreme Court, this Court

⁵ 2021 SCC OnLine SC 1193

⁶ 2021 SCC OnLine SC 967

is inclined to grant an interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

15. The appellant and the fourth respondent being jointly and severally liable are directed to deposit the entire amount of compensation within a period of one month from the date of receipt of a copy of this order. On such deposit, the Respondent Nos.1 to 3 are permitted to withdraw the entire amount.

16. Regarding apportionment of the compensation, Respondent Nos.2 and 3 are the daughters aged 24 and 23 years respectively in year 2013 and Respondent No.1 is the husband of the deceased aged 51 years as on the date of the order of the Tribunal, all of them are entitled for an equal amount.

17. Accordingly, this appeal is disposed of. There shall be no order as to costs.

18. Miscellaneous Petitions, if any, pending in this appeal shall stand closed in the light of this final order.

Sd/-B.SATYAVATHI
ASSISTANT REGISTRAR

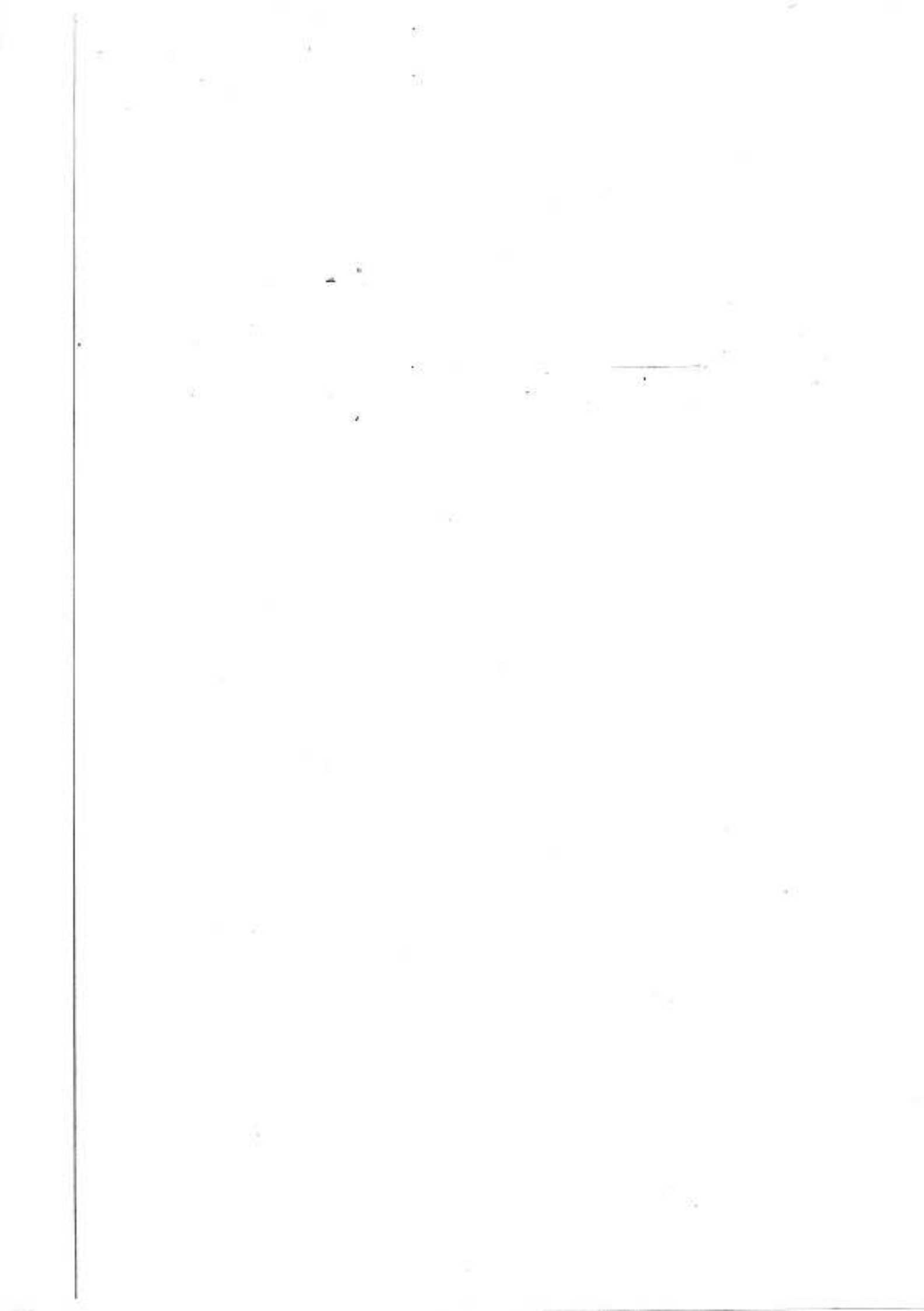
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SECTION OFFICER

To

1. The Chairman, Motor Accidents Claims Tribunal -cum- Principal District Judge, Madak at Singareddy.
2. One CC to Sri N.Mohan Krishna, Advocate (OPUC)
3. One CC to Sri M.Kiran Reddy, Advocate (OPUC)
4. One CC to Sri T.V.Ramana Rao, Advocate (OPUC)
5. Two CD Copies
6. One Spare Copy

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HIGH COURT

DATED:31/12/2021

JUDGMENT

MACMA.No.1725 of 2014



DISPOSING OF THE MACMA.

24/02/22 (1)

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

FRIDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY ONE

**PRESENT
THE HONOURABLE SRI JUSTICE P. NAVEEN RAO
AND
THE HONOURABLE SMT JUSTICE P.SREE SUDHA**

M.A.C.M.A. NO: 1725 OF 2014

Between:

M/s. Reliance General Insurance Company Ltd., Rep by its Branch Manager, Deccan Chambers, 4th Floor, Somajiguda, Hyderabad. (Policy No.1807422311001313 valid from 28.12.2012 to 27.12.2013)

...APPELLANT/R2

AND

1. Bommakanti Bhumalingam, S/o Buchaiah, Occ:- Employee in A.P.C.P.D.C.L, R/o H.No.15-27 LIG APHB Pothireddypally, Sangareddy Mandal, Medak District.
2. Bommakanti Ramyakrishna, D/o Bhumalingam, (W/o G. Naresh), Occ:- Housewife, R/o H.No.15-27 LIG APHB Pothireddypally, Sangareddy Mandal, Medak Dist.
3. Bommakanti Archana, D/o B.Bhumalingam, Occ:- Student, R/o H.No.15-27 LIG APHB Pothireddypally, Sangareddy Mandal, Medak District.
4. Mr. Pradeep Bothukurwar, S/o not known to the petitioner, Occ:- Owner of Maruthi Swift Dzire AP-01-AA-0007, R/o H.No.4-3-229/5, Bhukthapur Village, Adilabad District -504001.

...RESPONDENTS/PETITIONERS 1 TO 3 & R1

Appeal under Section 173 of Motor Vehicles Act, against the judgment/ order and decree made in MVOP.No.156 of 2013 dated 01/10/2013 on the file of the Court of the Chairman, Motor Accidents Claims Tribunal -cum- Principal District Judge, Medak at Sangareddy.

ORDER: 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 suit and upon hearing the arguments of Sri V.Satyam Reddy, Senior Advocate for Sri N.Mohan Krishna, Advocate for the Appellant and of Sri M.Kiran Reddy, for R1 to R3 and Sri.T.V.Ramana Rao, Advocate for the Respondent No.4.

This Court doth Order and decree as follows :-

1. That the MACMA be and hereby is disposed of
2. That the compensation awarded by the Tribunal be and hereby reduced from Rs.37,54,000/- to Rs.34,01,012/-
3. That the compensation amount shall carry interest is 7.5% p.a. from the date of petition till the date of realization.
4. That the appellant and the fourth respondent be and hereby are directed to deposit the entire amount of compensation jointly and severally within a period of one month from the date of receipt of a copy of this order.
5. That on such deposit respondent number 1 to 3 be and hereby are permitted to withdraw the entire amount.

6. That the (of the compensation) respondents 1 to 3 are entitled for an equal amount.
7. That there shall be no Order as to costs in this MACMA.

Sd/-B.SATYAVATHI
ASSISTANT REGISTRAR

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SECTION OFFICER

To

1. The Chairman, Motor Accidents Claims Tribunal -cum- Principal District Judge,
Medak at Sangareddy.
2. Two CD Copies
3. One Spare Copy

Kj.


HIGH COURT

DATED:31/12/2021

DECREE

MACMA.No.172 i of 2014

DISPOSING C : THE MACMA.

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