

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

**FRIDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND TWENTY TWO**

PRESENT

THE HONOURABLE SRI JUSTICE PULLA KARTHIK

M.A.C.M.A.NO: 1574 OF 2007 AND 3955 OF 2012

M.A.C.M.A.No.1574 of 2007

Appeal Under Section 173 of Motor Vehicles Act against the order and decree in OP.No.1799 of 2004 dated 01-05-2007 on the file of the Court of the XXII Additional Chief Judge – cum – before Motor Accident Claims Tribunal, City Criminal Court at Hyderabad.

Between:

The New India Assurance Company Limited, Rep. by its Divisional Manager, Ranigunj, Secunderabad.

[Policy No.558/62093/61603, dated 05-09-2003 issued by Narasaraopet Branch Office, valid from 06-09-2003 to 05-09-2004]

.....APPELLANT/RESPONDENT No.2

AND

1. Chintapatla Prasanna Laxmi @ Manjula, W/o Late Chintapatla Srinivaschary, aged 22 years, Occ : House hold
2. Ch. Sushma, D/o Late Chintapatla Srinivaschary, aged 2 years
3. Ch. Hanumantha Rao, S/o Late Chintapatla Srinivaschary, Age 30 days

(Res. 2 and 3 are being minors rep. by their natural guardian and mother i.e 1st Respondent)

R1 to R3 R/o C/o Sri Sai Deepa Rock Drills [P] Limited, Cherlapally, Hyderabad.

....RESPONDENT/PETITIONERS

4. K. Shankar Yadav, S/o K.Ashaiah, age major Business, Owner of Lorry no. AAP 7 W 2149 R/o H.No.27-16/18/6/1, Srikrishna nagar, Malkajgiri, Secunderabad, Ranga Reddy District. (Owner of the Lorry bearing No.AAP7VV2149)

5. G.Satyanarayana, S/o Seshagiri Rao, age major R/o 9th Ward, Park Bazar, Sattenapalli, Guntur District.

(Amended as per Order No.I.A.No.327/05, dated 01-06-2006)

.....RESPONDENTS/RESPONDENTS

M.A.C.M.A.No.3955 OF 2012

Between

1. Chintapatla Prasanna Laxmi @ Manjula, W/o Late Chintapatla Srinivaschary, aged 22 years, Occ : House hold
 2. Ch. Sushma, D/o Late Chintapatla Srinivaschary, aged 2 years
 3. Ch. Hanumantha Rao, S/o Late Chintapatla Srinivaschary, Age 30 days
- C/o.Sri Sai Deepa Rock Drills [P] Limited, Cherlapally, Hyderabad.

.....PETITIONERS/APPELLANTS

AND

1. K. Shankar Yadav, S/o K.Ashaiah, age major Business, Owner of Lorry no. AAP 7 W 2149 R/o H.No.27-16/18/6/1, Srikrishna nagar, Malkajgiri, Secunderabad, Ranga Reddy District. (Owner of the Lorry bearing No.AAP7VV2149)
2. The New India Assurance Company Limited, Rep. by its Divisional Manager, Ranigunj, Secunderabad.
3. G.Satyanarayana, S/o Seshagiri Rao, age major R/o 9th Ward, Park Bazar, Sattenapalli, Guntur District.

(Amended as per Order No.I.A.No.327/05, dated 01-06-2006)

.....RESPONDENTS/RESPONDENTS

Counsel for the Appellant in MACMA.1574/07 for Respondent No.2 in 3955/2012 :

Sri.B.Devanand

Counsel for the Appellants in MACMA.3955/2012 for Respondents 2 to 5 in MACMA.1574/07 : Sri.P.Rama Krishna Reddy

The Court made the following Common Judgment : -

THE HON'BLE SRI JUSTICE PULLA KARTHIK
M.A.C.MA. Nos.1574 of 2007 and 3955 of 2012

COMMON JUDGMENT:

These two appeals are being disposed of by this common judgment since M.A.C.M.A.No.1574 of 2007 filed by the Insurance Company and M.A.C.M.A.No.3955 of 2012 filed by claimants are directed against the very same judgment and decree, dated 18.05.2017 made in O.P.No.1799 of 2004 on the file of the Motor Accidents Claims Tribunal-cum-XXII Additional Chief Judge, City Criminal Court, Hyderabad (for short "the Tribunal").

2. The case of the claim petitioner in brief:

On 15.01.2004 in the midnight at about 12.00 P.M. Chinthapatla Srinivasa Chary (hereinafter referred to as "the deceased") was proceeding on motorcycle bearing No. AP-28Q-4552 from Hyderabad towards Alair slowly on extreme left side of the road and when he reached near the village limits of Tallagudem, one lorry bearing No.AP-7W-2149 driven by its driver with high speed in rash and

negligent manner and dashed the motorcycle of the deceased from behind and as a result, the deceased fell down, sustained fatal injuries and died on the spot.

3. It is pleaded that the deceased was aged about 25 years at the time of accident and he was hale, healthy, young and energetic. It is further pleaded that prior to his death, the deceased was working as Turner in Sri Sai Deepa Rock Drills (P) Ltd., Cherlapally, Hyderabad and getting salary of Rs.6,000/- per month and used to contribute his earnings for the maintenance of the claimants. Due to sudden demise of the deceased, the claimants lost their dependency, love and affection and their source of income. Therefore, the claimants laid the claim against respondent Nos.1 to 3, claiming compensation of Rs.12,00,000/- under various heads.

4. Respondent No.1 filed counter before the Tribunal opposing the claim of claimants and contended that the lorry driver was having valid driving licence at the time of accident and the said vehicle was having valid insurance

policy as on the date of accident, therefore, respondent No.2, insurance company alone is liable to pay the compensation.

5. Respondent No.2/New India Assurance company filed its counter before the Tribunal and opposed the claim petition *inter alia* contending that the claim petition is not maintainable and is liable to be dismissed. It is pleaded that the claimants are put to strict proof regarding manner of occurrence of the accident, age, avocation and income of the deceased. It is further pleaded that the deceased had no proper and valid licence and the deceased without observing the following traffic rules drove the motorcycle in a rash and negligent manner and thereby contributed for the accident. Respondent No.2 filed petition in I.A.No. 327 of 2005 under order 1 rule 10 of C.P.C to implead one G. Satyanarayana, who is the owner of vehicle bearing No. AP-7W-2149 and respondent No.3 remained *ex parte* before the Tribunal.

6. On behalf of the claimants P.Ws. 1 to 3 were examined. Exs.A1 to A19 and Exs.X1 to X5 were marked. On behalf of respondent No.2, R.W.1 was examined. Ex.B1 policy was marked.

7. On considering the material and evidence on record, the Tribunal had allowed the O.P. in part by awarding compensation of Rs.3,00,000/- together with interest at 7.5% per annum from the date of petition till the date of realisation, payable by respondent Nos.2 and 3 jointly and severally as under:

1.	Loss of income	Rs.2,72,000
2.	Funeral expenses	Rs.2,000
3.	Loss of estate	Rs.10,000
4.	Loss of consortium	Rs.15,000
	Total	Rs.2,99,000/-

Rounded of to Rs.3,00,000/-

8. Heard both sides and perused the record.

9. Learned counsel appearing for the claimants contends that the Tribunal had wrongly taken the earnings of the deceased on lower side and awarded less compensation. It is further contended that the Tribunal failed to take in to consideration the future prospects and increase in the salary. As per Ex.A8 to Ex.A10, the deceased was skilled worker having passed National Trade Certificate (ITI), National Apprentice Ship and Trade Apprentice Ship. It is further contended that the Tribunal erred in awarding less compensation towards consortium, loss of estate and funeral expenses.

10. In contra, the Learned Standing Counsel appearing for the Insurance Company, contended that the Tribunal failed to consider the fact that there was contributory negligence on the part of the deceased as he drove the motorcycle without observing the vehicles. It is further contended that the Tribunal erroneously applied multiplier 17 for the age group of 33 years old deceased which is on higher side. It is further contended that the Tribunal grossly erred in awarding excessive compensation under

different heads. It is further contended that the Tribunal failed to appreciate the specific plea of the insurer that insurance policy was issued in the name of 3rd respondent and 1st respondent is no way concerned and that he is not the owner of the lorry involved in the accident as alleged by the claimants.

11. This court has taken note of the submissions made by the respective parties.

12. A perusal of the record would show that the Tribunal had framed Issue No.1 as to whether the accident took place on 15.01.2005 at midnight due to rash and negligent driving of Lorry bearing No.AP 07 W 2149 by its driver, to which the Tribunal after considering the evidence of P.W.2 coupled with the documentary evidence i.e., Ex.A1- F.I.R. and Ex.A2-charge sheet, has categorically observed that the accident has occurred due to the rash and negligent driving of the driver of the Lorry. Therefore, this Court holds that the Tribunal had justified in holding that the

accident occurred due to the rash and negligent driving of the driver of lorry bearing No.AP 07 W 2149.

13. Though the claimants pleaded that the deceased was working as Turner (skilled worker) and earning Rs.6,000/- per month, the Tribunal had taken the income of the deceased at Rs.24,000/- per annum. In view of the decision of the Apex Court in **Minu Rout Vs. Satya Pradyumna Mohapatra**¹, this Court is inclined to take the income of the deceased at Rs.6,000/- per month by treating the deceased as skilled worker. The claimants are also entitled to an addition of 40% towards future prospects, as per the decision of the **Hon'ble Supreme Court in National Insurance Company Limited Vs. Pranay Sethi and others**². Therefore, monthly income of the deceased comes to Rs.8,400/- (Rs.6,000/- + Rs.2,400/-). As the dependants are 3 in number, 1/3rd is to be deducted towards personal expenses of the deceased.

¹ (2013) 10 SCC 695

² 2017 ACJ 2700

After deducting 1/3rd amount towards his personal and living expenses, the contribution of the deceased to the family works out to Rs.5,600/- per month. As per S.S.C. Certificate, the age of the deceased was 33 years at the time of the accident, hence the appropriate multiplier is '16'. Adopting multiplier '16', the total loss of dependency comes to Rs.5,600/- x 12 x 16 = Rs.10,75,200/-. The claimants are also entitled to Rs.77,000/- under the conventional heads i.e., loss of consortium, loss of estate and funeral expenses as per Pranay Sethi's case (supra). Apart from the above, as per the decision of the Apex Court in **Magma General Insurance Company Limited v. Nanu Ram @ Chuhru Ram and others**³, considering the fact that the claimant Nos.2 and 3, who are the children of the deceased, this Court is inclined to award a sum of Rs.40,000/- each under the head of parental consortium. Thus, in all the claimants are entitled to Rs.12,32,200/- as under:

1. Loss of income	Rs.10,75,200
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³ (2018) 18 SCC 130

2. conventional heads Rs.77,000

3. Loss of consortium Rs.80,000

Total Rs.12,32,200/-

14. At this stage, the learned Counsel for the Insurance company submits that the claimants claimed only a sum of Rs.12,00,000/- as compensation and the quantum of compensation which is now awarded would go beyond the claim made which is impermissible under law.

15. In view of the Judgments of the Apex Court in **Laxman @ Laxman Mourya Vs. Divisional Manager, Oriental Insurance Company Limited and another⁴ and Nagappa Vs. Gurudayal Singh⁵**, the claimants are entitled to get more amount than what has been claimed. The Motor Vehicles Act being a beneficial piece of legislation, where the interest of the claimants is a paramount consideration the Courts should always

⁴ (2011) 10 SCC 756

⁵ 2003 ACJ 12 (SC)

endeavour to extend the benefit to the claimants to a just and reasonable extent.

16. Accordingly, M.A.C.M.A.No.1574 of 2007 filed by the Insurance Company is dismissed and M.A.C.M.A.No.3955 of 2012 filed by the claimants is allowed. The compensation awarded by the Tribunal is hereby enhanced from Rs.3,00,000/- to Rs.12,32,200/-. The enhanced amount will carry interest @ 7.5% per annum from the date of petition till the date of realization. The enhanced amount shall be apportioned among the claimants in the same proportion in which original compensation amounts were directed by the Tribunal. Time to deposit the compensation is two months from the date of receipt of a copy of this judgment. On such deposit, the major claimants are permitted to withdraw their respective share amounts without furnishing any security, subject to payment of deficit Court Fee on the enhanced amount. There shall be no order as to costs.

11

Pending miscellaneous petitions, if any, in these
appeals shall stand closed.

Sd/-K.VENKAIAH
ASSISTANT REGISTRAR

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SECTION OFFICER

To

1. The XII Additional Chief Judge – cum – Before the MACT – City Criminal Courts at Hyderabad.
2. One CC to Sri.P.Bhanu Prakash, Advocate [OPUC]
3. One CC to Sri.B.Devanand, Advocate [OPUC]
4. One CC to Sri.V.Krishna Rao, Advocate [OPUC]
5. Two CD Copies

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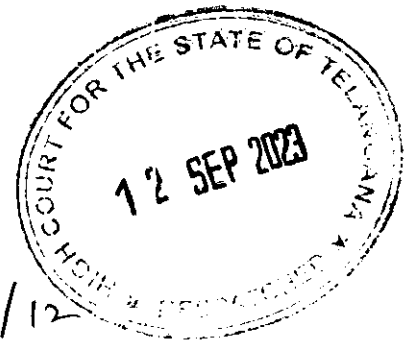
Pme.

HIGH COURT

DATED:30/12/2022

COMMON JUDGMENT

MACMA.No.1574 of 2007 AND 3955/12



MACMA.1574/07 IS DISMISSED

AND

MACMA.3955/12 IS ALLOWED.

⑦ pme.
24/8/23.

HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

FRIDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND TWENTY TWO

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THE HONOURABLE SRI JUSTICE PULLA KARTHIK

M.A.C.M.A.NO: 1574 OF 2007 AND 3955 OF 2012

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(Res. 2 and 3 are being minors rep. by their natural guardian and mother i.e
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M.A.C.M.A.No.3955 OF 2012

Between

- 1.Chintapatla Prasanna Laxmi @ Manjula, W/o Late Chintapalla Srinivaschary, aged 22 years, Occ : House hold
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(Amended as per Order No.I.A.No.327/05, dated 01-06-2006)

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Appeal Under Section 173 of Motor Vehicles Act against the order and decree in OP.No.1799 of 2004 dated 01-05-2007 on the file of the Court of the XXII Additional Chief Judge – cum – before Motor Accident Claims Tribunal, City Criminal Court at Hyderabad.

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 arguments of Sri.B.Devanand, Advocate for the Appellant in MACMA.1574/07 for Respondent No.2 in 3955/2012 and of Sri.P.Rama Krishna Reddy, Advocate for the Respondents 3 to 5 in MACMA.1574/07 and Appellant MACMA.3955/12.

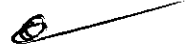
This Court doth Order and Decree as follows : -

1. That the Motor Accident Civil Miscellaneous Appeal be and hereby is allowed.
2. That the compensation awarded by the XXII Additional Chief Judge – cum – Before the MACT, City Criminal Court, Hyderabad is enhanced from Rs.3,00,000/- to Rs.12,32,200/-.

3. That the enhanced amount will carry interest @ 7.5% per annum from the date of petition till the date of realization.
4. That the enhanced amount shall be apportioned amount the claimants in the same proportion in which original compensation amounts were directed by the tribunal time to deposit the compensation is two months from the date of receipt of a copy of this judgment.
5. On such deposit, the major claimants are permitted to withdrawn their respective share amounts without furnishing any security, subject to payment of deficit Court fee on the enhanced amounts.
6. That save as aforesaid, the decree of the Lower Court shall stands confirmed in all other respects ; and
7. That there be no order as to costs in this appeal.
8. MACMA.No.1574/07 : - This Court doth Order and Decree as follows : - That the MACMA.No.1574/07 filed by the Insurance Company is dismissed.

Sd/-K.VENKAIAH
ASSISTANT REGISTRAR

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SECTION OFFICER

To ~~XXI~~

1. The ~~XXI~~ Additional Chief Judge – cum – Before the MACT – City Criminal Courts at Hyderabad.

2. Two CD Copies

SA

Pme.

HIGH COURT

DATED:30/12/2022

COMMON DECREE

MACMA.No.1574 of 2007 AND 3955/12

MACMA.1574/07 IS DISMISSED

AND

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W.P.M.C.
24/8/23.