

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

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

PRESENT

THE HONOURABLE SMT JUSTICE M.G.PRIYADARSINI

MACMA NO: 1395 AND 1856 OF 2015

MACMA NO: 1395 OF 2015

Appeal filed under Section 173 of M.V.Act, against the order and decree dated 20-01-2014 passed in O.P.No. 1057 of 2012, on the file of the, Motor Vehicle Accidents Claims Tribunal-Cum-II Additional Chief Judge, City Civil Courts, Hyderabad

Between:

United India Insurance Company Ltd., Represented by its Divisional Manager, Office is situated at Possnett Bhavan, Tilak Road, Abids, Hyderabad - 500 001.

...APPELLANT/RESPONDENT No. 2

AND

1. R Padmavathi W/o Sri R Satyanarayana Aged 40 years, Occ : Housewife
2. Sri R Sathyanarayana, S/o Sri R Nageswara Rao Aged 45 years, Occ : Coolie
3. Sri R Bhanupriya, D/o Sri R Satyanarayana Aged 19 years, Occ : Student

All are R/o. H.No.13-14-176/1 Malakpet, Hyderabad.

...RESPONDENTS/CLAIMANTS

4. M/s Sri Rama Agencies, Rep by Vijay Kumar Gaud, Major Occ: Business, R/o H.No.1-10-85/3B Shasabgutta, Mahaboobnagar - 509001

...RESPONDENT/RESPONDENT No. 1

MACMA NO: 1856 OF 2015

Appeal filed under Section 173 of M.V.Act, against the order and decree dated 20-01-2014 passed in O.P.No. 1057 of 2012, on the file of the, Motor Vehicle Accidents Claims Tribunal-Cum-II Additional Chief Judge, City Civil Courts, Hyderabad

Between:

1. R. Padmavathi W/o R. Satyanarayana Aged 43 years, Occ: Housewife
2. R. Satyanarayana, S/o R. Nageshwara Rao, Aged 50 years, Occ: Coolli
3. Ms. R. Bhanupriya, D/o R. Satyanarayana, Aged 22 years, Occ: Housewife

All are residents of H.No: 13-14-176/1, Malakpet, Hyderabad.

...APPELLANTS/PETITIONERS

AND

1. M/s Sri Rama Agencies, Rep by Vijay Kumar Goud Aged Major, Occ: Business H.No: 1-10-85/3B, Shasabugutta, Mahaboobnagar - 509 001.
2. United India Insurance Company Limited, Rep by its Divisional Manager, Off: Posnett Bhavan, Tilak Road, Abids, Hyderabad.

...RESPONDENTS/RESPDTS

**Counsel for the Appellant in
MACMA No. 1395 of 2015 &
Counsel for Respondent No.2 in
MACMA No. 1856 of 2015**

: Sri SRINIVASA RAO VUTLA

**Counsel for the Respondent Nos. 1 to 3
In MACMA No.1395 of 2015 &
Counsel for Petitioner Nos. 1 to 3
In MACMA No. 1856 of 2015**

: Sri JAGATHPAL REDDY KASI REDDY

**Counsel for the Respondent No.4
In MACMA No. 1395 of 2015
& Counsel for Respondent No.1
In MACMA No. 1856 of 2015**

: None appeared

The Court delivered the following: JUDGMENT

HONOURABLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A.Nos.1395 of 2015 and 1856 of 2015

COMMON JUDGMENT:

These two appeals are being disposed of by this common judgment since M.A.C.M.A.No.1395 of 2015 filed by the United India Insurance Company Limited challenging the quantum of compensation and M.A.C.M.A.No.1856 of 2015 filed by the claimants seeking enhancement of compensation, are directed against the very same award and decree, dated 20.01.2014 made in O.P.No.1057 of 2012 on the file of the Chairman, Motor Vehicle Accidents Claims Tribunal-cum-II Additional Chief Judge, City Civil Courts, Hyderabad (for short "the Tribunal").

2. For the sake of convenience, hereinafter the parties will be referred to as per their array before the Tribunal.

3. The facts, in issue, are as under:

Originally the claimants filed a petition under Sections 166 and 163-A read with Section 140 of the Motor Vehicles Act, 1988 against the respondents 1 and 2, claiming compensation of Rs.10,00,000/- for the death of one R.Durga Sai Prasad @ Durga

Prasad (hereinafter referred to as "the deceased"), who died in the accident that occurred on 15.04.2012. Subsequently they confined to Section 166 of Motor Vehicles Act by filing a memo. According to the claimants, on 15.04.2014 at about 16-45 hours Rajasekhar and R.Durga Prasad were proceeding on the motorcycle bearing No. TN 07 AT 6815 from Gandimaisamma towards Bachupally side and when they reached near Bowrampet Cross roads, Eicher vehicle bearing No. AP 22 Y 6003 being driven by its driver came in a rash and negligent manner at high speed and while overtaking another vehicle dashed the motorcycle due to which both of them fell down and died on the spot. According to the petitioners, the deceased was aged 23 years and was working as Carpenter in Vertex Homes Private Limited and was getting Rs.10,000/- per month. Therefore, they are seeking compensation of Rs.10,00,000/- against the respondent Nos.1 and 2, who are the owner and insurer of the Eicher vehicle, jointly and severally.

4. Before the Tribunal, respondent No.1 filed counter denying the averments made in the claim-petition including the manner in which the accident took place, age, avocation and income of the

deceased. It is further contended that the offending vehicle was insured with the respondent No.2 and therefore, prays to dismiss the petition.

5. Respondent No.2 filed counter disputing the manner of accident, age, avocation and income of the deceased. It is further contended that the compensation claimed is excessive and therefore, prays to dismiss the petition.

6. Based on the above pleadings, the Tribunal framed the following issues:

1. *Whether the pleaded accident dated 15-04-2012 was occurred due to the rash and negligent driving of the driver of crime vehicle i.e., Eicher vehicle bearing No. AP 22 Y 6003 and whether the deceased R.Durga Prasad died due to the said accident?*
2. *Whether the petitioners are entitled for compensation and if so, to what quantum and whether crime vehicle was owned by first respondent and insured with second respondent and what is the liability of the respondents?*
3. *To what relief?*

/

7. In order to prove the issues, PWs.1 and 2 were examined and Exs.A1 to A6 were marked on behalf of the petitioners. On behalf of the respondents, no witnesses were examined and no document was marked.
8. After considering the oral and documentary evidence available on record, the Tribunal held that the accident occurred due to the rash and negligent driving of the Eicher vehicle and awarded the total compensation of Rs.8,26,000/- with costs and interest at 7.5% per annum from the date of petition till the date of deposit of amount to be paid by the respondent Nos.1 and 2 jointly and severally.
9. Heard both the learned counsel and perused the material available on record.
10. The main contention raised by the learned Standing Counsel for the respondent No.2-United India Insurance Company Limited is that the Tribunal granted excessive compensation by deducting $\checkmark 1/3^{\text{rd}}$ of the earnings instead of half of the earnings towards personal expenses of the deceased by taking the income of the

deceased at Rs.6,000/- per month instead of Rs.3,000/- per month and prays to set aside the Order passed by the Tribunal.

11. Learned Counsel for the claimants has submitted that though the claimants established that the deceased was working in M/s. Vertex Homes Private Limited and was earning Rs.10,000/- per month, the Tribunal did not consider the future prospectus and has awarded very meager amount.

12. With regard to the manner of accident, there is no dispute. However, the Tribunal after evaluating the evidence of PWs.1 and 2 coupled with the documentary evidence available on record, rightly held that the accident occurred due to the rash and negligent driving of the driver of the Eicher vehicle.

13. With regard to the quantum of compensation, the evidence of PW-1 shows that the deceased was a Carpenter working at Vertex Homes Private Limited and getting Rs.10,000/- per month. Ex.A6 Certificate also shows that the deceased was being paid salary of Rs.10,000/- per month. However, as the person who issued Ex.A6 was not examined to prove the income of the deceased, his income

can be taken at Rs.6,000/-, which is very less. Therefore, considering the age and avocation of the deceased, this Court is inclined to take the actual income of the deceased at Rs.8,000/- per month. Further the claimants are entitled to addition of 40% towards future prospects to the established income, as per the decision of the Apex Court in *National Insurance Company Limited Vs. Pranay Sethi and others*¹. Therefore, future monthly income of the deceased comes to Rs.11,200/- (Rs.8,000/- + Rs.3,200/- being 40% thereof). From this, 50% is to be deducted towards personal expenses of the deceased following *Sarla Verma v. Delhi Transport Corporation*² as the deceased was a bachelor. After deducting 50% amount towards his personal and living expenses, the contribution of the deceased to the family would be Rs.5,600/- per month. Since the age deceased was 20 years by the time of the accident, the appropriate multiplier is '18' as per the decision reported in *Sarla Verma v. Delhi Transport Corporation* (supra). Adopting multiplier '18', the total loss of dependency would be Rs.5,600/- x 12 x 18 = **Rs.12,09,600/-**. In addition

¹ 2017 ACJ 2700

² 2009 ACJ 1298 (SC)

thereto, the claimants are also entitled to **Rs.33,000/-** under the conventional heads as per **Pranay Sethi's** (supra). Further the petitioner Nos.1 and 2 are also entitled to parental consortium at **Rs.40,000/-** each as per the **Magina General Insurance Company Limited vs. Nanu Ram Alias Chuhru Ram**³. Thus, in all the claimants are entitled to **Rs.13,22,600/-**.

14. Accordingly, M.A.C.M.A.No.1856 of 2015 filed by the claimants is allowed by enhancing the compensation amount awarded by the Tribunal from Rs.8,26,000/- to **Rs.13,22,600/-**. The enhanced amount shall carry interest at 7.5% per annum from the date of petition till the date of realization, payable by respondent Nos.1 and 2 jointly and severally. The enhanced amount shall be apportioned in the manner as ordered by the Tribunal. Time to deposit the compensation is one month from the date of receipt of a copy of this order. The claimants shall pay the deficit court fee and on such payment of court fee only, the claimants are entitled to withdraw the compensation without furnishing any security. The M.A.C.M.A.No.1395 of 2015 filed

³ 2018 Law Suit (SC) 904

by the insurance company stands partly allowed to the extent of deducting 50% towards personal expenses of the deceased instead of $\frac{1}{3}^{\text{rd}}$ as was deducted by the tribunal while computing the quantum of compensation. There shall be no order as to costs.

15. Miscellaneous petitions, if any, pending shall stand closed.

Sd/- P. PADMANABHA REDDY
ASSISTANT REGISTRAR

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SECTION OFFICER

To,

1. The Motor Vehicle Accidents Claims Tribunal-Cum-II Additional Chief Judge, City Civil Courts, Hyderabad (with records)
2. One CC to SRI. SRINIVASA RAO VUTLA, Advocate [OPUC]
3. One CC to SRI. JAGATHPAL REDDY KASI REDDY, Advocate [OPUC]
4. Two CD Copies

VH



HIGH COURT

DATED: 30/12/2022

COMMON JUDGMENT

**MACMA.No.1395 of 2015
&
MACMA.No.1856 of 2015**



**PARTLY ALLOWING THE
MACMA NO. 1395 OF 2015
AND ALLOWING THE
MACMA NO. 1856 OF 2015**

(7) *vw*
1/4/23

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

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

PRESENT

THE HONOURABLE SMT JUSTICE M.G.PRIYADARSINI

MACMA NO: 1395 AND 1856 OF 2015

MACMA NO: 1395 OF 2015

Between:

United India Insurance Company Ltd., Represented by its Divisional Manager,
Office is situated at Possnett Bhavan, Tilak Road, Abids, Hyderabad - 500
001.

...APPELLANT/RESPONDENT No. 2

AND

1. R Padmavathi W/o Sri R Satyanarayana Aged 40 years, Occ : Housewife
2. Sri R Sathyanarayana, S/o Sri R Nageswara Rao Aged 45 years, Occ : Coolie
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...RESPONDENTS/CLAIMANTS

4. M/s Sri Rama Agencies, Rep by Vijay Kumar Gaud, Major Occ: Business, R/o
H.No.1-10-85/3B Shasabgutta, Mahaboobnagar - 509001

...RESPONDENT/RESPONDENT No. 1

MACMA NO: 1856 OF 2015

Between:

1. R. Padmavathi W/o R. Satyanarayana Aged 43 years, Occ: Housewife
2. R. Satyanarayana, S/o R. Nageshwara Rao, Aged 50 years, Occ: Cooli
3. Ms. R. Bhanupriya, D/o R. Satyanarayana, Aged 22 years, Occ: Housewife

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2. United India Insurance Company Limited, Rep by its Divisional Manager, Off: Posnett Bhavan, Tilak Road, Abids, Hyderabad.

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This Appeal coming on for hearing and upon perusing the ground of appeal, the Judgment and Decree of the Lower Court and the material papers in the case and upon hearing the arguments of Sri SRINIVASA RAO VUTLA, Advocate for the Appellant in MACMA No. 1395 of 2015 & Counsel for Respondent No.2 in MACMA No. 1856 of 2015 and Sri JAGATHPAL REDDY KASI REDDY, Advocate for the Respondent Nos. 1 to 3 In MACMA No.1395 of 2015 & Counsel for Petitioner Nos. 1 to 3 In MACMA No. 1856 of 2015 and None appeared for the Respondent No.4 In MACMA No. 1395 of 2015 & Counsel for Respondent No.1 In MACMA No. 1856 of 2015

COMMON DECREE: This Court Doth order and Decree as here under:

1. That the MACMA be and here by is partly allowed in MACMA No. 1395 of 2015 filed by the insurance company stands partly allowed to the extent of deducting 50% towards personal expenses of the deceased instead of 1/3rd as was deducted by the tribunal while computing the quantum of compensation.
2. That the MACMA No. 1856 of 2015 be and hereby is allowed and filed by enhancing the compensation amount awarded by the Tribunal from Rs. 8,26,000/- to Rs. 13,22,600/-;
3. That the enhanced amount shall carry interest at 7.5% per annum from the date of petition till the date of realization, payable by respondent Nos. 1 and 2 jointly and severally;
4. That the enhanced amount shall be apportioned in the manner as ordered by the tribunal;

5. That the Time to deposit the compensation is one month from the date of receipt of a copy of this order.
6. That the claimants shall pay the deficit court fee and on such payment of court fee only the claimants are entitled to withdraw the compensation without furnishing any security;
7. That save as aforesaid, the decree of the lower Court shall stands confirmed in all other respects; and
8. That there shall be no order as to costs to this M.A.C.M.A.

Sd/- P. PADMANABHA REDDY
ASSISTANT REGISTRAR

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SECTION OFFICER

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HIGH COURT

DATED: 30/12/2022

COMMON DECREE

MACMA.No.1395 of 2015

&

MACMA.No.1856 of 2015

PARTLY ALLOWING THE

MACMA NO. 1395 OF 2015

AND ALLOWING THE

MACMA NO. 1856 OF 2015

⑤ 1/4/23