

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

**THURSDAY, THE FIRST DAY OF SEPTEMBER  
TWO THOUSAND AND TWENTY TWO**

**PRESENT**

**THE HONOURABLE SMT JUSTICE M.G.PRIYADARSINI**

**MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 1887 OF 2015**

Appeal Under Section 173 of Motor Vehicles Act against the Judgment/Order and Decree made in O.P.No.1837 of 2013 dated 12.05.2015 on the file of the Motor Vehicles Accidents Claims Tribunal-cum-X Additional Chief Judge, City Civil Court, Hyderabad.

**Between:**

1. Smt. S. Amrutha, W/o S. Shivaramulu Goud Aged 47 years, occ: Household
2. S. Shivaramulu Goud, S/o Late S. Baga Goud Aged 52 years, occ: Nil
3. S. Renuka, D/o S. Shivaramulu Goud Aged 21 years, occ: Household (All residents of H.No. 3-4-5/13C Dr Bhoomanna Lane, Kacheguda, Hyderabad)

**...APPELLANTS/ PETITIONERS**

**AND**

1. Haleemuddin, S/o Azeemuddin Baksha Aged major, occ: Business R/o Kone Colony, Bidar Road; UDGIR Latur District, Maharashtra State
2. The New India Assurance Co Ltd., Rep by its Divisional Manager 101, I Floor, Tirumala Towers Judges' Colony, Malakpet, Hyderabad-500036

**...RESPONDENTS**

**Counsel for the Appellants : SRI. JAGATHPAL REDDY KASI REDDY**

**Counsel for the Respondent No.2 : SRTI. MUDDU VIJAY**

**Counsel for the Respondent No.1 : NA**

**The Court made the following: JUDGMENT**

THE HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

MA.CMA.NO.1887 OF 2015

JUDGMENT

Being not satisfied with the compensation granted by the court of the Motor Vehicles Accidents claims Tribunal – cum – X Additional Chief Judge, City Civil Court, at Hyderabad (Tribunal) in O.P.No.1837 of 2013 dated 12.05.2015, the claimants filed the present appeal seeking enhancement of compensation.

2. The claimants are the parents and unmarried sister of the deceased – S.Satyanarayana Goud.

3. The case of the claimants is that on 21.04.2013 at about 11.50 p.m., when the deceased along with pillion rider Anjaneyulu alias Anjaiah was proceeding on his motor cycle bearing No., AP 023AE 5994, and that when they were in front of Sai Ram Traders on Medak to Narsapur Road, Medak, DCM van bearing No. MH 24F 9262 (crime vehicle) came in the opposite direction in high speed, in a rash and negligent manner and dashed the motor cycle, as a result of which, the deceased sustained fatal injuries all over the body, and while he was being shifted to Government Area Hospital, Medak, succumbed to injuries. Police registered a case in Cr.No.95 of 2013 under Sections 304-A and 337 IPC against the driver of the crime vehicle.

4. The further case of the claimants is that the deceased was aged 26 years and was hale and healthy at the time of accident and was a bachelor and was working as a driver and used to earn an amount of Rs.10,000/- per month as salary and Rs.100/- per day as batta. And

that due to the death of the deceased, they lost their livelihood. Hence, they filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.15,00,000/- with interest at the rate of 24% per annum against the respondents, who are the owner and the insurer of the crime vehicle.

5. The 1<sup>st</sup> respondent – owner of the crime vehicle remained ex parte and the 2<sup>nd</sup> respondent – insurer filed counter affidavit, and denying the manner of accident pleaded by the claimants, and also the age, avocation, income and further contending that the compensation claimed is exorbitant, sought for dismissal of the claim petition.

6. Considering the evidence of P.W.1, and also the evidence of P.W.2, who is the pillion rider, and an injured in the said accident, coupled with Exs.A-1 to A-6, the Tribunal concluded that the accident occurred due to rash and negligent driving of the driver of the crime vehicle i.e., MH 24F 9262.

7. Further, taking the monthly income of the deceased as Rs.5,000/- and as the deceased was aged 26, applying the multiplier of 17, and deducting 1/3<sup>rd</sup> towards personal expenses, awarded an amount of Rs.6,80,000/- towards loss of income. The Tribunal also awarded Rs.1,00,000/- to the claimants 1 and 1, who are parents, towards loss of love and affection and moral support, and Rs.25,000/- towards funeral expenses, and thus in all awarded an amount of Rs.8,05,000/- with interest at the rate of 7.5 per cent per annum from the date of the claim petition till the date of realization.

8. As already stated above, not being satisfied with the compensation granted by the Tribunal, the claimants filed the present appeal seeking enhancement of compensation. In the present appeal, the manner of accident and also the liability are not under dispute and only the quantum is under dispute.

9. Learned counsel appearing for the appellants / submits that the deceased was working as a driver, and the claimants also filed his driving licence, and he was earning an amount of Rs.8,000/- per month as salary and also Rs.100/- per day as batta, but the Tribunal has taken his monthly income only as Rs.5,000/-. He submits that the Apex Court in the decision reported in KALDA DEVI v. BHAGWAN DAS CHAUHAN<sup>1</sup> has taken the monthly income of the deceased as Rs.9,000/-, who was a driver. In another decision reported in CHANDRA @ CHANDA @ CHANDRAM v. MUKESH KUMAR YADAV<sup>2</sup>, the Apex Court has taken the monthly income of a driver as Rs.15,000/-. Therefore, he submits that in the present case, at least the income of the deceased, who is having a light motor vehicle licence, may be taken as Rs.8,000/- per month. He further submits that the Tribunal has not granted future prospects and the amount under the conventional heads as per the judgments of the Apex court in NATIONAL INSURANCE CO. LTD. v. PRANAY SETHI<sup>3</sup> and MAGMA GENERAL INSURANCE CO. LTD. v. NANU RAM<sup>4</sup>.

10. On the other hand, Sri Muddu Vijay, learned counsel for the respondent No.2 – Insurance Company supporting the impugned order, sought for dismissal of the claim petition.

<sup>1</sup>(2015)2 SCC 771

<sup>2</sup>2021 All SCR 2196

<sup>3</sup>(2017)16 SCC 680

<sup>4</sup>(2018)18 SCC 130

11. In view of the rival contentions the issue that arises for consideration is whether the compensation granted by the Tribunal requires to be enhanced?

12. With regard to income of the deceased, though the claimants claimed that he was working as driver, and earning salary of Rs.8,000/- per month and Rs.100/- per day as batta, no documentary evidence is produced, except the oral evidence of P.W.1, who is the mother of the deceased. In the judgments of the Apex Court relied on by the counsel for the appellants / claimants, the deceased therein, based on evidence, was found to be a driver of heavy motor vehicles. In the present case, except marking the light motor vehicle licence, there is no evidence on record to show that actually deceased was working as driver. Hence, in the considered opinion of this court, the Tribunal has rightly taken the monthly income of the deceased as Rs.5,000/- and no interference is warranted. The annual income of the deceased comes to Rs.60,000/-. As the dependants of the deceased are three in number, the deduction towards living and personal expenses of the deceased shall be at the rate of  $1/3^{\text{rd}}$ . If  $1/3^{\text{rd}}$  is deducted from Rs.60,000/-, the amount that the deceased would be contributing to his family comes to Rs.40,000/-.

13. As the deceased was aged 26 years as on the date of the accident, the claimants are entitled to 40% of the established income towards future prospects. 40% of Rs.40,000/- comes to Rs.16,000/-. Thus the annual income of the deceased including future prospects comes to Rs.56,000/-. As the deceased was aged 26 years, the appropriate multiplier is '17'. Thus the

claimants would be entitle to Rs.9,52,000/- (Rs.56,000/- x 17 = Rs.9,52,000/-) towards loss of dependency.

14. As per the judgment of the Apex Court in Praney Sethi's case (3 supra), the claimants are entitled to Rs.33,000/- under the conventional heads. Thus, the amount of Rs.1,25,000/- granted by the Tribunal is accordingly reduced to Rs.33,000/-.

15. The deceased is a bachelor, and as per the judgment of the Apex Court in Nanu Ram's case (4 supra), the claimants who are parents, and an unmarried sister of the deceased, are granted an amount of Rs.1,20,000/- (Rs.40,000/- each to the three claimants) toward loss of filial consortium to claimants 1 and 2, and towards loss of love and affection and moral support to the 3<sup>rd</sup> claimant, who is the unmarried sister of the deceased.

16. Thus, the claimants are granted the following amounts:

- |                                                                                           |                     |
|-------------------------------------------------------------------------------------------|---------------------|
| 1. Loss of dependency                                                                     | -- Rs.9,52,000 - 00 |
| 2. Conventional heads (loss of estate and funeral expenses)                               | -- Rs. 33,000 - 00  |
| 3. Loss of filial consortium to claimants 1 and 2 (Rs.40,000/- each)                      | -- Rs. 80,000 - 00  |
| 4. Loss of love and affection and moral support to claimant No.3 - sister of the deceased | -- Rs. 40,000 - 00  |

|        |                                     |
|--------|-------------------------------------|
| Total: | -----<br>Rs.11,05,000 - 00<br>----- |
|--------|-------------------------------------|

17. Thus the compensation of Rs.8,05,000/- is enhanced to Rs.11,05,000-00 with interest at the rate of 7.5 per cent per annum from the date of the claim petition till the date of realization. Respondents 1 and 2, who are the insured and the insurer of the crime vehicle are jointly and severally liable to pay the compensation.

18. The apportionment of compensation among the claimants, withdrawal and mode of deposit, shall be as ordered by the Tribunal.

19. The appeal is partly allowed to the extent indicated above.

20. Interlocutory Applications pending, if any, shall stand closed. No order as to costs.

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SD/- R. KARTHIKEYAN  
ASSISTANT REGISTRAR  
SECTION OFFICER

To,

1. Chairman, Motor Vehicles Accidents Claims Tribunal-cum-X Additional Chief Judge, City Civil Court, Hyderabad. (with records)
2. One CC to SRI. JAGATHPAL REDDY KASI REDDY Advocate [OPUC]
3. One CC to SRI. MUDDU VIJAY Advocate [OPUC]
4. Two CD Copies

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**HIGH COURT**

**DATED:01/09/2022**



**JUDGMENT**

**MACMA.No.1887 of 2015**

**PARTLY ALLOWING THE MACMA  
WITHOUT COSTS**

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

THURSDAY, THE FIRST DAY OF SEPTEMBER  
TWO THOUSAND AND TWENTY TWO

**PRESENT**

**THE HONOURABLE SMT JUSTICE M.G.PRIYADARSINI**

**MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 1887 OF 2015**

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2. The New India Assurance Co Ltd., Rep by its Divisional Manager 101, I Floor, Tirumala Towers Judges' Colony, Malakpet, Hyderabad-500036

**...RESPONDENTS**

Appeal against the Order of the court of the file of the Motor Vehicles Accidents Claims Tribunal-cum-X Additional Chief Judge, City Civil Court, Hyderabad, dated 12.05.2015 made in O.P.No.1837 of 2013

This appeal coming on for hearing and upon perusing the memorandum of appeal, the orders of the Lower Court and the material papers in the case, and upon hearing the arguments of SRI. JAGATHPAL REDDY KASI REDDY, Advocate for the appellants and of SRI. MUDDU VIJAY for the Respondent No.2

This Court while allowing the MACMA in part doth Order and decree as follows :-

1. That the compensation awarded by the tribunal from Rs.8.05.000/- is enhanced to Rs.11.05.000/- with interest at the rate of 7.5% per annum from the date of the claim petition till the date of realization, respondents 1 & 2, who are the insured and the insurer of the of the crime vehicle are jointly and severally liable to pay the compensation.

2. That the apportioned of compensation among the claimants, withdrawal and mode of deposit, shall be as ordered by the tribunal.
3. That to save aforesaid, that the decree of the lower court be and hereby is confirmed in all other aspects; and
4. That there shall be no Order as to costs in this MACMA.

**SD/- R. KARTHIKEYAN**  
**ASSISTANT REGISTRAR**

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**SECTION OFFICER**

**To,**

1. Chairman, Motor Vehicles Accidents Claims Tribunal-cum-X Additional Chief Judge, City Civil Court, Hyderabad.
2. Two CD Copies  
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**HIGH COURT**

**DATED:01/09/2022**

**DECREE**

**MACMA.No.1887 of 2015**

**PARTLY ALLOWING THE MACMA  
WITHOUT COSTS**

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