

HIGH COURT FOR THE STATE OF TELANGANA

**FRIDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY THREE**

PRESENT

**THE HONOURABLE SRI JUSTICE P.SAM KOSHY
AND
THE HONOURABLE SRI JUSTICE N.TUKARAMJI**

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 2080 OF 2012

Appeal Under Section 173 of Motor Vehicles Act against the order and decree in O.P.No.299 of 2001 dated 21-03-2012 on the file of the Court of the Chairman, Motor Accident Claims Tribunal –cum- I Additional District Judge, at Mahabubnagar.

Between:

The United India Insurance Co Ltd, Represented by its Divisional Manager
O/o. Crystal Plaza, 1st Floor, Masab Tank, Hyderabad.

...Appellant/R-2 in O.P.

AND

1. V.Jayalaxmi, W/o.late Janardhan, R/o.43-139/2, Hanuman Nagar, Moulali, Hyderabad.
2. V.Mounika, D/o.late Janardhan, Age- Minor, R/o.43-139/2, Hanuman Nagar, Moulali, Hyderabad.
3. V.Harika, D/o.late Janardhan, Age- Minor, R/o.43-139/2, Hanuman Nagar, Moulali, Hyderabad.
4. V.Divya Sree, D/o.late Janardhan, Age- Minor, R/o.43-139/2, Hanuman Nagar, Moulali, Hyderabad.
[R2 to 4 being minors, rep by their mother R1 herein]
5. V.Ananthamma [Died], pending OP and the R1 to R4 are the LRs of V.Ananthamma

...Respondents/Claimants in O.P.,

6. S.Hanumantha Reddy, S/o.Vasudeva Reddy, Age- Major, R/o.10-2-289/120/119/1/13, Vijayanagar Colony, Hyderabad - 500 000.

...Respondent/Respondent in O.P.,

I.A. NO: 1 OF 2012(MACMAMP. NO: 3799 OF 2012)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased stay of all further proceedings including the execution of Judgement and Decree dated 21-03-2012 in OP No.299/20014 passed by the MACT cum I Additional District Judge, Mahabubnagar, including the withdrawal of money deposited by the petitioner, pending the above appeal before this Hon'ble Court in the interest of justice.

Counsel for the Appellant: Sri. V. SAMBASIVA RAO

Counsel for the Respondent Nos.1 to 4: K. VENKATESH GUPTA

Counsel for the Respondent No.6: None Appeared

The Court delivered the following: JUDGMENT

**THE HONOURABLE SRI JUSTICE P.SAM KOSHY
AND
THE HONOURABLE SRI JUSTICE N.TUKARAMJI**

M.A.C.M.A.No.2080 OF 2012

JUDGMENT: *(per Hon'ble Sri Justice P.SAM KOSHY)*

Heard Mr.V.Sambasiva Rao, learned counsel for the appellant and Mr.K.Venkatesh Gupta, learned counsel for the respondents. Perused the material available on record.

2. The present is an appeal filed assailing the award dated 21.03.2012 passed by the Motor Accident Claim Tribunal-cum-I Additional Judge, Mehboobnagar, in M.V.O.P.No.299 of 2001.

3. Vide the impugned award, the Tribunal has awarded a compensation of Rs.14,62,500/- with interest @ 7.5%. The liability has been facing upon the appellant insurance company herein.

4. The present is an appeal by the insurance company challenging the said award. The appeal has been questioned primarily on the ground that though the M.V.O.P was filed as early as on 2001, in between there has been a couple of dismissal of default i.e., for want of prosecution before the trial court. Ultimately, Civil Revision Petition (for short C.R.P.) has to be filed and has been filed which stood allowed and the matter was taken back for consideration and the impugned award has been passed.

5. Learned counsel for the appellant stressed hard on the fact that since there was a lapse on the part of the claimants in pursuing the claim petition effectively before the court below, the insurance company is being saddled with the liability of payment of interest for this entire period, where in between for a period of around roughly three (3) years i.e., in between 25.11.2002 to 2005 till the C.R.P was filed after the rejection of the restoration petition which has been filed in 2005. The appeal seems to be primarily on this ground alone.

6. On due consideration of the entire facts and circumstance of the case, we are of the considered opinion that whatever the contention and the relief that the petitioner was seeking as of now ought to had been raised by him at the time of contesting the C.R.P. which stood allowed on 20.06.2011. Once if after considering the objections raised by the appellant herein, if the C.R.P. has been allowed on 20.06.2011 and the matter stood revived before the Tribunal for a fresh consideration and the award having been passed, the appellant insurance company now cannot turn around and raised this objection so far as awarding of interest is concerned. The court while allowing the C.R.P. found that the reason for which the appellant could not pursue their case on 25.11.2002 when it was dismissed for want of prosecution cannot now be reconsidered by

this Court in exercise of its appellate jurisdiction where the challenge is only to the award dated 21.03.2012.

7. In view of the same, we are of the considered opinion that no strong case has been made out by the appellant calling for an interference with the impugned award. Thus, the appeal fails and is accordingly rejected.

8. As a sequel, miscellaneous applications pending if any in this appeal, shall stand closed. No order as to costs.

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Sd/- A.V.S. PRASAD
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Chairman, Motor Accident Claims Tribunal -cum- I Additional District Judge, at Mahabubnagar
2. One CC to SRI. V. SAMBASIVA RAO, Advocate [OPUC]
3. One CC to SRI. K. VENKATESH GUPTA, Advocate [OPUC]
4. Two CD Copies

PSR

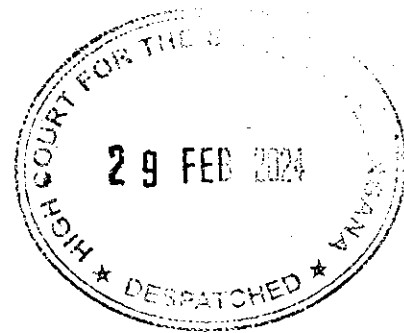
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HIGH COURT

DATED:15/12/2023

JUDGMENT

MACMA.No.2080 of 2012



REJECTED MACMA

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**FRIDAY, THE FIFTEENTH DAY OF DECEMBER
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Appeal Under Section 173 of Motor Vehicles Act against the order and decree in O.P.No.299 of 2001 dated 21-03-2012 on the file of the Court of the Chairman, Motor Accident Claims Tribunal –cum- I Additional District Judge, at Mahabubnagar.

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 MVOP and upon hearing the arguments of Sri. V. SAMBASIVA RAO, Advocate for the Appellant and of Sri. K. VENKATESH GUPTA, Advocate for the Respondent Nos.1 to 4. And for the Respondent No.6 not appeared either in person or by Advocate.

This Court doth Order and Decree as follows:

1. That the Motor Accident Civil Miscellaneous Appeal be and hereby is Rejected; and
2. That there shall be no order as to costs in this appeal

**Sd/- A.V.S. PRASAD
ASSISTANT REGISTRAR**

//TRUE COPY//


SECTION OFFICER

To,

1. The Chairman, Motor Accident Claims Tribunal —cum- I Additional District Judge, at Mahabubnagar
2. Two CD Copies

PSR



HIGH COURT

DATED:15/12/2023

DECREE

MACMA.No.2080 of 2012

REJECTED MACMA

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