

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

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

PRESENT

THE HONOURABLE SMT JUSTICE P.SREE SUDHA

M.A.C.M.A. Nos. : 915 OF 2013 and 2481 of 2015

Appeal Under Section 173 of M.V.Act aggrieved by the decree and judgment dated 14-11-2012 in MVOP No. 611 of 2008 on the file of the Court of the Chairman, Motor Accident Claims Tribunal –cum- District Judge, Adilabad

Between:

Bajaj Allianz General Insurance Company Ltd. Rep. by its Branch Manager. Branch Office, R/o Hyderabad

...APPELLANT/ R -2

AND

- 1. Perumbudoori Sudershan S/o P.Doddaiah, occ Police Constable R/o H.NO.4-9-79,Rickshaw Colony, Adilabad**
- 2. P. Vijaya, W/o Perummbudoori Sudershan, occ Household R/o H.No.4-9-29, Rickshaw Colony, Adilabad.**
- 3. Marshiti Venkati, S/o Ramulu Occ: Owner of Tractor and Trailor No. . AP 01 V 2808 and AP. 01 V 2884, R/o Lakerwada Village, Mandal Jainath Adilabad District.**

...RESPONDENTS/ Petitioner & R 1

I.A. NO: 2 OF 2013(MACMAMP. NO: 2105 OF 2013)

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 execution of the decree and all further proceedings passed in MVOP No.611/2008, dated 14.11.2012 on the file of the Chairman, Motor Accident Claims Tribunal Cum District Judge , Adilabad

Counsel for the Appellant: SRI. N. MOHAN KRISHNA

Counsel for the Respondent Nos. 1 & 2 : SRI S. SURENDER REDDY

M.A.C.M.A. NO: 2481 OF 2015

Appeal Under Section 173 of M.V.Act aggrieved by the decree and judgment dated 14-11-2012 in MVOP No. 611 o 2008 on the file of the Court of the Chairman, Motor Accident Claims Tribunal –c um- District Judge, Adilabad

Between:

1. Perumbudoori Sudershan S/o Doddaiiah, Occ Police Constable, Resident of H.no. 4-9-79, Rikshaw Colony, Adilabad, Adilabad District
2. P.Vijaya, W/o Perumbudoori Sudershan Occ Household Resident of H.no. 4-9-79, Rikshaw Colony, Adilabad, Adilabad District

...APPELLANTS/ PETITIONER

AND

1. Marshiti Venkati , S/o Ramulu, Occ Owner of Tractor and Tractor No. AP01 V 2808 and AP01V 2884, R/o Lakerwada Village, Jainath Mandal, Adilabad Dist
2. Mrs Daja, Allianz General insurance Company Limited, Rep: by its Branch Manager, branch Office, Hyderabad.

...RESPONDENTS

Counsel for the Appellant: SRI. S. SURENDER REDDY

Counsel for the Respondent No.1: SRI LAKKADI DAYAKER REDDY

Counsel for the Respondent No. 2 : SRI N. MOHANA KRISHNA

The Court delivered the following Judgment :

THE HONOURABLE SMT. JUSTICE P.SREE SUDHA

M.A.C.M.A.Nos.915 of 2013 AND 2481 of 2015

COMMON JUDGMENT:

M.A.C.M.A.No.915 of 2013 is filed by the Insurance Company against the judgment and decree dated 14.11.2012 passed in M.V.O.P.No.611 of 2008 on the file of Chairman, MACT-cum-District Judge, Adilabad.

2. M.A.C.M.A.No.2481 of 2015 is filed by the claimants against the judgment and decree dated 14.11.2012 passed in M.V.O.P.No.611 of 2008 on the file of Chairman, MACT-cum-District Judge, Adilabad this appeal is filed.

3. In M.A.C.M.A.No.915 of 2013, it is mainly contended that there is no negligence of the driver and electrocution is not covered under the policy and further contended that the learned Tribunal wrongly granted $\frac{1}{2}$ of the deduction on income towards personal expenses as the deceased is unmarried and also stated that interest is to be granted @ 6% per annum and not 7% per annum.

4. M.A.C.M.A.No.2481 of 2015 is filed by the parents of deceased claiming compensation of Rs.3,60,000/- for death of the deceased due to accident occurred. But the trial Court granted an amount of Rs.3,24,000/- towards compensation with an interest @ 7% per annum from the date of application

till the date of deposit. Therefore, requested this Court to modify the judgment passed by the trial Court.

5. Heard learned counsel for the claimants and no representation on behalf of the counsel for the Insurance Company.

6. In M.A.C.M.A.No.2481 of 2015 it is mainly contended that deceased was aged about 22 years and used to earn Rs.3,300/- per month by working as tutor, but the trial Court without considering the same erred in taking the earnings of the deceased as Rs.3,000/- per month. This Court is of the considered view that the trial Court has rightly taken the income of the deceased and needs no interference. Therefore, the annual income of the deceased would be Rs.36,000/- (Rs.3,000/- X 12 = Rs.36,000/-) per annum.

7. As per the guidelines of the Hon'ble Apex Court in dictum of **Sarla Verma Vs. Delhi Transport Corporation**,¹ if the deceased was unmarried, $\frac{1}{2}$ of his income has to be deducted as there are 2 dependents i.e., 18,000/- (Rs.36,000/- X $\frac{1}{2}$ = Rs.18,000/-) towards his personal expenses. Thus, the annual income of the deceased after deducting personal expenses would come to Rs.18,000/- per annum and the Hon'ble Apex Court in the dictum of **National Insurance Company Limited Vs.**

¹ (2009) 6 SCC 121

Pranay Sethi², held that the future prospects of income of the employed shall also be included in determination of the compensation. Thus, considering the age of the deceased i.e., 22 years, 40% of the income i.e., Rs.7,200/- (Rs.18,000 X 40%=Rs.7,200/-) has to be added towards future prospects and thus the amount would become Rs.25,200/- (Rs.18,000 + Rs.7,200 = Rs.25,200). This sum if multiplied with the multiplier 18, as applicable to the age of the deceased i.e., 22 years, it would come to Rs. 4,53,600/- (Rs.25,200 X 18 = Rs. 4,53,600/-). Thus, appellants/petitioners are entitled to Rs.4,53,600/-under the head 'Loss of Dependency'.

8. Besides, appellants are also entitled for compensation under 'conventional heads' as prescribed in the dictum of **National Insurance Company Limited Vs. Pranay Sethi**, i.e., Rs.15,000/- towards loss of Estate and Rs.15,000/- towards funeral charges. Therefore, they are entitled to Rs.30,000/- under the 'Conventional heads'.

9. Further, the Hon'ble Supreme Court, by reiterating the comprehensive interpretation of 'consortium' given in the authority of **Magma General Insurance Company Limited vs. Nanu Ram Alias Chuhru Ram & others**³, and in the authority

² (2017) 16 SCC 680

³ (2018) 18 SCC 130

between **United India Insurance Company Limited vs. Satinder Kaur @ Satwinder Kaur and others**⁴, fortified that the amounts for loss of consortium shall be awarded to the children who lose the care and protection of their parents as 'parental consortium' and to the parents as, 'filial consortium' for the loss of their grown-up children, to compensate their agony, love and affection, care and companionship of deceased children. In this case deceased has mother and father. Accordingly, it is just and reasonable to award Rs. 10,000/- for 'Filial consortium'.

10. Therefore, appellants/petitioners are entitled for the compensation in the following terms:

1.	Loss of dependency	Rs. 4,53,600/-
2.	Conventional heads	Rs. 30,000/-
3.	Filial Consortium	Rs. 80,000/-
TOTAL		Rs. 5,63,600/-

M.A.C.M.A.No.2481 of 2015

11. In the result, this appeal is allowed by enhancing the compensation from Rs.3,24,000/- to Rs.5,63,600/- (Rupees Five lakhs Sixty Three thousand Six hundred only) with interest

⁴ (2020) 9 SCC 644

at the rate of 7.5% per annum from the date of filing the petition till the date of realization. Respondents No.1 and 2 are jointly and severally liable to pay compensation, respondent No.2/Insurance Company is directed to deposit the entire amount within a period of one month from the date of this Judgment. On such deposit, parents of the deceased are permitted to withdraw the entire amount along with interest accrued on it equally. Petitioners/appellants are also directed to pay deficit court fee on the enhanced amount. There shall be no order as to costs.

M.A.C.M.A.No.915 of 2013

In view of the findings in M.A.C.M.A.No.2481 of 2015 the M.A.C.M.A.No.915 of 2013 is dismissed. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

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

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SECTION OFFICER

To

1. The Chairman, Motor Accident Claims Tribunal -cum- District Judge, Adilabad (with records)
2. One CC to SRI. N. MOHAN KRISHNA, Advocate [OPUC]
3. One CC to SRI. S. SURENDER REDDY, Advocate [OPUC]
4. One CC to Sri LAKKADI DAYAKAR REDDY, Advocate (OPUC)
5. Two CD Copies

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HIGH COURT

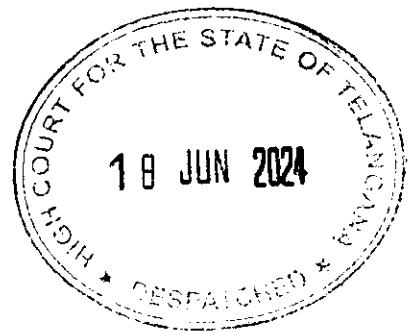
PSSJ

DATED:29/12/2023

+ DECREE

COMMON JUDGMENT

M.A.C.M.A. Nos. : 915 OF 2013 and 2481 of 2015



ALLOWING THE MACMA NO. 2481 OF 2015 AND DISMISSING THE MACMA NO. 915 OF 2013 WITHOUT COSTS

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

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

PRESENT

THE HONOURABLE SMT JUSTICE P.SREE SUDHA

M.A.C.M.A. Nos. : 915 OF 2013 and 2481 of 2015

Between:

Bajaj Allianz General Insurance Company Ltd, Rep. by its Branch Manager, Branch Office, R/o Hyderabad.

...APPELLANT R -2

AND

1. Perumbudoori Sudershan S/o P.Doddaiah, occ Police Constable R/o H.NO.4-9-79,Rickshaw Colony, Adilabad
2. P. Vijaya, W/o Perummbudoori Sudershan, occ Household R/o H.No.4-9-29, Rickshaw Colony, Adilabad.
3. Marshiti Venkati, S/o Ramulu Occ: Owner of Tractor and Trailor No. . AP 01 V 2808 and AP. 01 V 2884, R/o Lakerwada Village, Mandal Jainath Adilabad District.

...RESPONDENTS/ Petitioner & R 1

Appeal Under Section 173 of M.V.Act aggrieved by the decree and judgment dated 14-11-2012 in MVOP No. 611 of 2008 on the file of the Court of the Chairman, Motor Accident Claims Tribunal –cum- District Judge, Adilabad

DECREE : This Appeal coming on for hearing, upon perusing the grounds of Appeal, the Judgments and Decree of the Lower Appellant Court and the Court of the First instance and the material papers in the suit and upon hearing the arguments of Sri N. MOHAN KRISHNA , Advocate for the Appellant and Sri S. SURENDER REDDY, Advocate for the Respondent No.1 & 2 and Sri LAKKADI DAYAKAR REDDY, Advocate for Respondent No.3.

M.A.C.M.A. NO: 2481 OF 2015

Between:

1. Perumbudoori Sudershan S/o Doddaiiah, Occ Police Constable, Resident of H.no. 4-9-79, Rikshaw Colony, Adilabad, Adilabad District
2. P.Vijaya, W/o Perumbudoori Sudershan Occ Household Resident of H.no. 4-9-79, Rikshaw Colony, Adilabad, Adilabad District

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AND

1. Marshiti Venkati , S/o Ramulu. Occ Owner of Tractor and Trailor No. AP01 V 2808 and AP01V 2884, R/o Lakerwada Village, Jainath Mandal, Adilabad Dist
2. M/s Bajaj Allianz General Insurance Company Limited, Rep. by its Branch Manager, branch Office, Hyderabad.

...RESPONDENTS

Appeal Under Section 173 of M.V.Act aggrieved by the decree and judgment dated 14-11-2012 in MVOP No. 611 of 2008 on the file of the Court of the Chairman, Motor Accident Claims Tribunal –cum- District Judge, Adilabad

DECREE : This Appeal coming on for hearing, upon perusing the grounds of Appeal, the Judgments and Decree of the Lower Appellant Court and the Court of the First instance and the material papers in the suit and upon hearing the arguments of Sri S. SURENDER REDDY , Advocate for the Appellant and Sri LAKKADI DAYAKAR REDDY, Advocate for the Respondent No.1 and SRI N. MOHAN KRISHNA, Advocate for the Respondent No. 2

This Court doth order and decree as follows:

1. That the MACMA No. 2481 of 2015 be and hereby is allowed and dismissing the MACMA No. 915 of 2013.
2. That the compensation amount awarded by the Tribunal be and hereby is enhanced from Rs. 3, 24,000/- to 5, 63,600/- (Rupees Five lakhs Sixty Three thousand Six hundred only) with interest at the rate of 7.5% per annum from the date of filing the petition till the date of realization.
3. That the Respondent Nos. 1 & 2 are jointly and severally liable to pay compensation, respondent No. 2 / Insurance Company be and hereby is directed to deposit the entire amount within a period of one month from the date of this Judgment.

4. That on such deposit, parents of the deceased are permitted to withdraw the entire amount along with interest accrued on it equally.
5. That Petitioners/ appellants are also directed to pay deficit court fee on the enhanced amount.
6. That there shall be no order as to costs in these appeals .

Sd/- A.V.S.PRASAD,
ASST. REGISTRAR

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SECTION OFFICER

To

1. The Chairman, Motor Accident Claims Tribunal -cum- District Judge,
Adilabad
2. Two C.D.Copies

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HIGH COURT

PSSJ

DATED:29/12/2023

COMMON DECREE

M.A.C.M.A. Nos. : 915 OF 2013 and 2481 of 2015

ALLOWING THE MACMA NO. 2481 OF 2015 AND DISMISSING THE MACMA NO.
915 OF 2013 WITHOUT COSTS

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