

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

**THURSDAY ,THE TWENTY EIGHTH DAY OF DECEMBER  
TWO THOUSAND AND TWENTY THREE**

**PRESENT**

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

**M.A.C.M.A. NO: 398 OF 2012**

**AND**

**CROSS OBJECTIONS NO. 9015 OF 2012**

Appeal Under Section 173 of M.V.Act and Cross Appeal Under Rule 22 of Order XII of CPC aggrieved by the decree and judgment dated 13-07-2011 in O.P.No. 301 of 2009 on the file of the Court of the Chairman, Motor Accident Claims Tribunal cum Special Sessions Judge for Trial of SCs /Sts (POA) Cases cum – Additional District Judge, Nalgonda

**Between:**

The Andhra Pradesh State Road Transport Corporation, Musheerabad, Hyderabad.  
Rep. by its General Manager/ Managing Director

**...APPELLANT/ Respondent in MACMA and Respondent in Cross Objections  
AND**

1. Sreeram Shetti Shantha Kumari , @ Shanta W/o.late Viswanatha Rao  
Household R/o.H.No.2-4-191/1, Share Bungalow, Nalgodna.
2. Sreeram Shetti Sreekanth, S/o.late Viswanatha Rao, 15 years, Occ: Student  
R/o.H.No.2-4-191/1, Share Bungalow, Nalgonda.
3. Sreeram Shetti Mounika, D/o.late Viswanatha Rao , 11 years,Occ: Student

( The Respondents No. 2 and 3 are being minors represented by their natural mother and Guardian Sreeram Shetti Shantha Kumari, Repondnent No.1 herein.)

**...RESPONDENTS/ Petitioners in MACMA and Petitioners in Cross Objections**

**I.A. NO: 2 OF 2011(MACMAMP. NO: 5342 OF 2011)**

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 to stay the execution of the decree and all further proceedings passed in OP.No. 301 of 2009, dt. 13/07/2011 on the file of the Motor Accidents Claims Tribunal-cum-



Additional district Judge-cum-Chairman, MACT Nalgonda pending disposal of the appeal in the interest of justice

**I.A. NO: 1 OF 2012(MACMAMP. NO: 342 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 permit the petitioner to amend the prayer part of original claim petition by amending the claim "from Rs.12.00 Lakh and to Rs.20.00 Lakh" in OP No.301/2009

**Counsel for the Appellant in MACMA and**

**Respondent in Cross Objection : SRI. A. RAVI BABU(SC FOR TSRTC)**

**Counsel for the Respondents in MACMA and**

**Petitioners in Cross Objections: SRI P. S. P. SURESH KUMAR**

**The Court delivered the following Judgment :**



THE HON'BLE SRI JUSTICE P.SAM KOSHY  
AND

THE HON'BLE SRI JUSTICE N.TUKARAMJI

M.A.C.M.A No. 398 OF 2012

AND

CROSS OBJECTIONS No. 9015 OF 2012

COMMON JUDGMENT (*per Hon'ble Sri Justice N. TUKARAMJI*)

1. Aggrieved by the fastened liability and the quantum of compensation awarded the respondents/APSRTC has preferred this appeal against the decree and order dated 13.07.2011 in M.V.O.P. No. 301 of 2009 passed by the Chairman, Motor Accidents Claims Tribunal-cum-Special Sessions Judge for trial of S.Cs/S.Ts (POA) Cases-cum-Addl. District Judge, Nalgonda,

2. Pending Appeal the respondent No.5/claim petitioners filed Cross Objections 9015 of 2012 seeking enhancement of the awarded compensation.

3. For the sake of facility the appellants are referred to with their status before the Tribunal.

4. The case of the Respondent No.6/claim petitioner (hereinafter the petitioners) is that, on 04.11.2008 Sri Shreeram Shetti Viswanadha Rao/deceased while travelling in APSRTC bus bearing No. A.P-10-Z-6744 at about 7.00 a.m., in the outskirts of Dandampelli Village, the driver drove the bus in rash and negligent manner and dashed the motorcycle bearing registration number AP-24-S-3845 and in that course, the bus went into roadside ditch and turned turtle. The motorcyclist died on the spot and the deceased and other passengers sustained severe injuries and while undergoing treatment the deceased succumbed to injuries on 20.11.2008. Thereupon the who are wife and minor children of the deceased filed petition seeking compensation of Rs.12,00,000/- under different heads.

5. The Tribunal on considering the materials awarded Rs.12,00,000/- with 6% per annum from the date of petition till the date of realization against the respondent/APSRTC.

6. Heard Sri P.S.P. Suresh Kumar, learned counsel for the appellants and Sri C. Sunil Kumar Reddy, learned counsel for the respondent. Perused the material on record.

7. Learned counsel for the respondent/APSRTC (hereinafter 'the respondent') would contend that the Tribunal should have considered the contributory negligence of the motorcyclist in the accident and apportioned the liability, as such the insured and insurer of the motorcycle were necessary parties and as the petition is bad for non-joinder. Further pleaded that the income of the deceased was considered without valid materials in assessment of compensation and the amounts granted under conventional heads is on higher sides. Hence prayed for reconsideration.

8. Learned counsel for the petitioners in Cross-objections contested that the Tribunal had failed in properly appreciating the petitioners claim of income and future

prospects. Further the multiplier applied was improper and meager amounts were granted under the conventional heads.

9. We have perused the materials on record.

10. The accident involved of the bus, the death of Sri Shreeram Shetti Viswandha Rao due to the injuries in the accident, the age and occupation of the deceased are not in dispute.

11. The respondent's prime contest is that the contributory negligence on the part of the motorcyclist has not been taken into consideration by the Tribunal. This contention does not persuade us for the reason that the deceased was the passenger of the bus and there was no negligence on his part in the accident. Nonetheless, as the accident occurred due to composite negligence of the driver of the bus and the rider of the motorcycle, the deceased being 3<sup>rd</sup> party, the petitioners are entitled to claim compensation from either of the vehicles. That being the position, either contributory

negligence or non-joinder of the insurer and insured of the motorcycle does not merit consideration.

12. The petitioners pleaded that the deceased was earning Rs.10,000/- per month by Pharmaceutical Distribution in the name and style of Viswashanthi Pharmaceutical Distributors. As the occupation of the deceased is not in dispute and in absence of any rebuttal except denial, no factor is found to disbelieve the claimed income. Further having regard to the nature of the occupation, the claimed salary at Rs.10,000/- per month is found reasonable. Accordingly, we affirm the monthly income of the deceased at Rs.10,000/-. Additionally, having regard to the age and the occupation of the deceased as self-employed, as per the dictum of the Hon'ble Supreme Court in *National Insurance Company v. Pranay Sethi*<sup>1</sup>, 25% of the income of the deceased has to be added towards future prospectus, which makes the annual income at Rs.1,50,000/-. As the dependants are three in

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<sup>1</sup> (2017) 16 SCC 860

number, if 1/3<sup>rd</sup> of the income has to be deducted towards personal expenses, the annual contribution of the deceased to the family would be Rs.1,00,000/-. If this sum is multiplied with relevant multiplier applicable to the age of deceased i.e. 14, it would be Rs.14,00,000/-. The petitioners are entitled to the amount for loss of dependency.

13. As per the directions in *Pranya Sethi* and *United India Insurance Co. Ltd., Vs. Satinder Kaur @ Satwinder Kaur & Others*, the petitioners are entitled for spousal and parental consortium at Rs.48,300/- each and for Rs.36,300/- towards loss of estate and funeral expenses.

14. That apart, taking note of the evidence the Tribunal had granted Rs.4,50,000/- towards medical expenses incurred after the accident, till the death of the deceased. Thus this amount is maintained.

15. For the aforesaid, the petitioners are eligible for the following amounts.

| Sl. No. | Description                         | Amount in Rs.   |
|---------|-------------------------------------|-----------------|
| 1       | Loss of dependency                  | Rs. 14,00,000/- |
| 2       | spousal and parental consortium     | Rs.1,44,900/-   |
| 3       | loss of estate and funeral expenses | Rs.36,300/-     |
| 4       | Medical expenses                    | Rs.4,50,000/-   |
|         | Total                               | Rs.20,31,200/-  |

The rate of interest granted by the Tribunal is in conformity with the bank rate of interest awarded by the Hon'ble Supreme court in recent judgment, hence the same is affirmed, likewise the ratio of apportionment among the petitioners as per the impugned award is sustained. Further, the respondent is directed to deposit the awarded amount within four weeks from the date of receipt of a copy of this judgment.

16. Accordingly, the Order dated 13.07.2011 in MVOP No. 301 of 2009 passed by the Chairman, Motor Accident Claims Tribunal-Cum-Special Sessions Judge for Trial of S.Cs/S.Ts (POA) Cases-cum-Additional District Judge, Nalgonda stands modified.

17. Resultantly, the M.A.C.M.A. No. 398 of 2012 filed by the respondent/insurer is dismissed without costs and the Cross Objections No. 9015 of 2012 filed by the petitioners is allowed.

As a sequel, 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 Special Sessions Judge for Trial of SCs /Sts (POA) Cases cum – Additional District Judge, Nalgonda ( with records)
2. One CC to SRI. A. RAVI BABU(SC FOR TSRTC), Advocate [OPUC]
3. One CC to SRI. P. S. P. SURESH KUMAR, Advocate [OPUC]
4. Two CD Copies

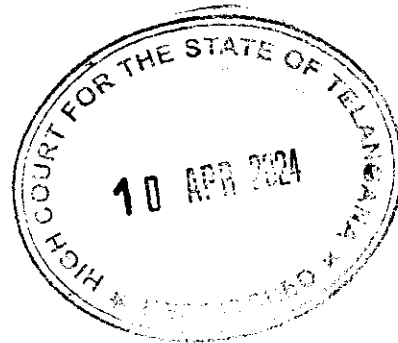
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HIGH COURT

PSKJ & NTRJ

DATED:28/12/2023



**JUDGMENT**

**MACMA.No.398 of 2012**

**AND**

**CROSS OBJECTIONS NO. 9015 of 2012**

**Dismissing the MACMA no. 398 of 2012 and**

**Allowing the Cross Objection no. 9015 of 2012**

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15/3/24

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

**THURSDAY, THE TWENTY EIGHTH DAY OF DECEMBER  
TWO THOUSAND AND TWENTY THREE**

**PRESENT**

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

**M.A.C.M.A. NO: 398 OF 2012**

**AND**

**CROSS OBJECTIONS NO. 9015 OF 2012**

**Between:**

The Andhra Pradesh State Road Transport Corporation, Musheerabad, Hyderabad.  
Rep. by its General Manager/ Managing Director

**...APPELLANT/ Respondent in MACMA  
and Respondent in Cross objections**

**AND**

1. Sreeram Shetti Shantha Kumari , @ Shanta W/o.late Viswanatha Rao  
Household R/o.H.No.2-4-191/1, Share Bungalow, Nalgodna.
2. Sreeram Shetti Sreekanth, S/o.late Viswanatha Rao, 15 years, Occ: Student  
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( The Respondents No. 2 and 3 are being minors represented by their natural  
mother and Guardian Sreeram Shetti Shantha Kumari, Repondnent No.1  
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**...RESPONDENTS/ Petitioners in MACMA  
and Petitioners in Cross Objections**

Appeal Under Section 173 of M.V.Act and Cross Appeal Under Rule 22 of  
Order XII of CPC aggrieved by the decree and judgment dated 13-07-2011 in  
O.P.No. 301 of 2009 on the file of the Court of the Chairman, Motor Accident  
Claims Tribunal cum Special Sessions Judge for Trial of SCs /Sts (POA) Cases  
cum – Additional District Judge, Nalgonda

**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 case and upon  
hearing the arguments of Sri A. RAVI BABU, SC for TS RTC for the appellant in  
MACMA and Respondent in Cross Objections and SRI P.S.P. SURESH KUMAR, Advocate  
for Respondent in MACMA and Petitioner in Cross Objections.

**The Court doth Order and Decree as follows:**

1. That Cross Objections No. 9015 of 2012 filed by the Petitioners be and hereby is allowed, modifying the order dated 13-07-2011 in MVOP No. 301 of 2009 passed by the Chairman, Motor Accident Claims Tribunal – cum- Special Sessions Judge for Trial of SCs /STs (POA) Cases – cum – Additional District Judge, Nalgonda, and granted compensaton of Rs. 20,31,200/-.
2. That the rate of interest granted by the Tribunal is in conformity with the bank rate of interest awarded by the Hon'ble Supreme Court in recent Judgment , hence the same is affirmed, likewise the ratio of apportionment among the petitioners as per the impugned award is sustained.
3. That the respondent be and hereby is directed to deposit the awarded amount within four weeks from the date of receipt of a copy of this judgment.
4. That save as aforesaid, the decree of the Lower Court shall stands confirmed in all other respects; and
5. That the MACMA No. 398 of 2012 filed by the Respondent / insurer be and hereby is dismissed without costs

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Sd/- A.V.S. PRASAD,  
ASSISTATN REGISTRAR  
SECTION OFFICER

To

1. The Chairman, Motor Accident Claims Tribunal cum Special Sessions Judge for Trial of SCs /Sts (POA) Cases cum – Additional District Judge, Nalgonda
2. Two C.D.Copies

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HIGH COURT

PSKJ & NTRJ

DATED:28/12/2023

DECREE

MACMA.No.398 of 2012

AND

CROSS OBJECTIONS NO. 9015

Dismissing the MACMA no. 398 of 2012 and

Allowing the Cross Objection no. 9015 of 2012

④ VLV  
15/3/24