

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: 632 AND 542 OF 2014

Appeals filed under Section 173 of M.V.Act., against the Order and decree dated 23.03.2013 passed in O.P.No.2534 of 2010 on the file of the Court of the Motor Accident Claims Tribunal-cum-II Additional Chief Judge, City Civil Court at Hyderabad.

M.A.C.M.A.NO: 632 OF 2014

Between:

1. K. Jayamma, W/o. K. Pandu, aged 40 years, Occ Household
2. K. Pandu @ Pandu Chary, S/o. Sathaiah, aged 42 years, Occ: Nil,
3. K. Bhavani, D/o. K. Pandu, aged 19 years, Occ: Household
All are R/o. 13-2-910/2, Puranipool, Rahipura, Hyderabad.

...APPELLANTS

AND

1. Pawar Kailash Sukhdev, aged 45 years, Occ: Business, R/o. Rahirgaon, Kannad Taluq, Aurangabad District, MR. (Owner of the Tempo bearing No. MH-20-AT-9283)
2. Cholanmandalam, M/s. General Insurance Co. Ltd, Rep by its Regional Manager, Hyderabad.

...RESPONDENTS

M.A.C.M.A.NO: 542 OF 2014

Between:

Cholanmandalam MS. General Insurance Co Ltd., Rep by its Regional Manager, Hyderabad.

...PETITIONER/RESPONDENT NO.2

AND

1. K Jayamma, W/o K Pandu, aged 43 years, Occ: Household, R/o 13-2-910/2, Puranapool, Rahipura, Hyderabad.
2. K Pandu @ Panu Chary, S/o Sathaiah, aged 45 years, Occ: Nil, R/o 13-2-910/2, Puranapool, Rahipura, Hyderabad.
3. K Bhavani, D/o K Pandu, Occ: Household, R/o 13-2-910/2, Puranapool, Rahipura, Hyderabad.

RESPONDENTS/PETITIONERS

4. Pawar Kailash Sukhdev, S/o not known, Occ: Business, R/o Rahirgaon, Kannad (Tq), Aurangabad Dist, MR.(Owner of the Tempo No.MH-AT-9283).
(R-4 is not necessary)

...RESPONDENTS/RESPONDENTS

MACMAMP. NO: 661 OF 2014

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 decree and judgment passed in M.V.O.P.NO.2534 of 2010, dt.23.03.2013 on the file of the MVACT-cum-II Additional Chief Judge, City Civil Court, Hyderabad pending the final disposal of the main appeal.

**Counsel for the Appellant in MACMA.
NO.632 OF 2014 and Respondents
in MACMA.NO.542 OF 2014**

:SRI. T VISWARUPA CHARY

**Counsel for the Respondents in MACMA.
NO.632 OF 2014 and Appellant
in MACMA.NO.542 OF 2014**

: SRI KOTA SUBBA RAO

The Court made the following: COMMON JUDGMENT

THE HONOURABLE SMT. JUSTICE P.SREE SUDHA

M.A.C.M.A.Nos.632 & 542 of 2014

COMMON JUDGMENT:

These appeals are filed against the Order dated 23.03.2013 in O.P.No.2534 of 2010 passed by the learned II Additional Chief Judge-cum-Motor Accident Claims Tribunal, City Civil Courts, Hyderabad.

2. The petition *vide* O.P.No.2534 of 2010 was filed by the petitioners/claimants claiming compensation of Rs.9,00,000/- for the death of the deceased Praveen Kumar @ Praveen, who died in the motor vehicle accident occurred on 15.07.2010. The Trial Court after considering the oral and documentary evidence on record, granted compensation of Rs.7,30,000/- along with interest @ 6% per annum from the date of petition till realization. Aggrieved by the said Order, they preferred M.A.C.M.A.No.632 of 2014.

3. The Road Transport Corporation (R.T.C) has also filed M.A.C.M.A.No.542 of 2014 against the same Order in O.P.No.2534 of 2010 and disputed the quantum of compensation awarded by the trial Court and requested the Court to set aside the Order of the trial Court.

4. Parties herein are referred as petitioners and respondents as arrayed before the trial Court for the sake of convenience.
5. The brief facts of the case are that on 14.07.2010, the deceased along with his family members started from Hyderabad for travelling to Shiridi. On 15.07.2010, at about 04.40 AM, when they were near English School on Jintur-Jalna Road, Parbhani District, Maharashtra, a tempo vehicle bearing No.MH 20 AT 9283 came in a rash and negligent manner dashed the vehicle in which the deceased was travelling. As a result, the deceased sustained grievous injuries and died on the spot. A case in Crime No.107 of 2010 under Sections 337, 338 and 304-A IPC was against the driver of the crime vehicle bearing No. MH 20 AT 9283.
6. P.Ws.1 and 2 are examined on behalf of the petitioners and Exs.A1 to A5 were marked. Ex.B1 was marked on behalf of respondents.
7. The learned Counsel for the petitioners mainly contended that the deceased was earning Rs.10,000/- per month, the trial Court without assigning any reasons taken his salary as Rs.5,000/- per month and relied upon a decision made by

Hon'ble Apex Court in **Rajesh Vs. Rajbir Singh**¹ a three-Judge Bench judgment held that in case of self-employed persons also, if the deceased victim is below 40 years, there must be addition of 50% to the actual income of the deceased while computing future prospects and the amount towards love and affection was not granted. Therefore, requested this Court to modify the order of the Trial Court.

8. Heard arguments of both sides and perused the entire evidence on record.

9. Learned counsel for petitioners relied upon a decision made by Hon'ble Apex Court in **Kunta Devi and others Vs Bhura Ram and another**², wherein it was held that the monthly income of the deceased who was working as a carpenter was taken as Rs.12,000/- per month. Though the deceased was a skilled goldsmith and was earning Rs.10,000/- per month, this Court finds it reasonable to take his income at Rs.8,000/- per month.

10. As per the guidelines of the Hon'ble Apex Court in dictum of **Sarla Verma Vs. Delhi Transport Corporation**,³ if the deceased was unmarried, ½ of his income has to be deducted

¹ (2013) 9 SCC 54

² 2023 ACJ 2384

³ (2009) 6 SCC 121

towards personal expenses and the Hon'ble Apex Court in the dictum of ***National Insurance Company Limited Vs. Pranay Sethi***⁴, held that the future prospects of income of the self-employed deceased shall also be included in determination of the compensation. Thus, considering the age of the deceased, 40% of the income has to be added towards future prospects. This sum if multiplied with the multiplier applicable to the age of the deceased i.e.18, it would come to Rs.12,09,600/-. Thus, the petitioners/claimants are entitled to Rs.12,09,600/- under the head 'Loss of Dependency'.

11. Besides, petitioners 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.

12. 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***⁵, and in the authority between ***United India Insurance Company Limited vs.***

⁴ (2017) 16 SCC 680

⁵ (2018) 18 SCC 130

Satinder Kaur @ Satwinder Kaur and others⁶, 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. Accordingly, it is just and reasonable to award Rs.40,000/- each petitioner Nos.1 and 2 towards filial consortium.

13. Therefore, petitioner Nos.1 and 2 are entitled for the compensation amount in the following terms:

1.	Loss of dependency	Rs.12,09,600/-
2.	Conventional heads	Rs.30,000/-
3.	Filial Consortium	Rs.80,000/-
TOTAL		Rs.13,19,600/-

14. In the result, M.A.C.M.A.No.632 of 2014 is allowed and M.A.C.M.A.No.542 of 2014 is dismissed. The amount of compensation granted by the trial Court is enhanced from Rs.7,30,000/- to Rs.13,19,600/- (Rupees Thirteen lakhs Nineteen thousand six hundred only) with interest at the rate of

⁶ (2020) 9 SCC 644

7.5% per annum from the date of filing the petition till the date of realization. Though, Respondents No.1 and 2 are jointly and severally liable to pay compensation, respondent No.2 is directed to deposit the entire amount within a period of one month from the date of this Judgment. Petitioner No.3, sister of the deceased was aged 19 years as on the date of filing of the appeal in the year 2014 and she is dependent on her father, petitioner No.2, as such, she is not entitled for any compensation. On such deposit, petitioner Nos.1 and 2 are permitted to withdraw the entire amount along with interest accrued on it equally. The appellants/petitioners are directed to pay the deficit court fee on the enhanced amount. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

SD/- MOHD. SANAULLAH ANSARI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Motor Accident Claims Tribunal-cum-II Additional Chief Judge, City Civil Court at Hyderabad.(With Records if any)
2. One CC to SRI. T VISWARUPA CHARY, Advocate [OPUC]
3. One CC to SRI. KOTA SUBBARAO, Advocate [OPUC]
4. Two CD Copies

Pr/AK

Pr

HIGH COURT

DATED: 29/12/2023

**COMMON JUDGMENT
MACMA.Nos.632 AND
542 OF 2014**



**DISMISSING THE MACMA.NO.542 OF 2014
AND
ALLOWING THE MACMA.NO.632 OF 2014**

*6 copies
for
6/3/24*

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: 632 AND 542 OF 2014

M.A.C.M.A.NO: 632 OF 2014

Between:

1. K. Jayamma, W/o. K. Pandu, aged 40 years, Occ Household
2. K. Pandu @ Pandu Chary, S/o. Sathaiah, aged 42 years, Occ: Nil,
3. K. Bhavani, D/o. K. Pandu, aged 19 years, Occ: Household
All are R/o. 13-2-910/2, Puranipool, Rahipura, Hyderabad.

...APPELLANTS

AND

1. Pawar Kailash Sukhdev, aged 45 years, Occ: Business, R/o. Rahirgaon, Kannad Taluq, Aurngabad District, MR. (Owner of the Tempo bearing No. MH-20-AT-9283)
2. Choramandalam, M/s. General Insurance Co. Ltd, Rep by its Regional Manager, Hyderabad.

...RESPONDENTS

M.A.C.M.A.NO: 542 OF 2014

Between:

Choramandalam MS. General Insurance Co Ltd., Rep by its Regional Manager, Hyderabad.

...PETITIONER/RESPONDENT NO.2

AND

1. K Jayamma, W/o K Pandu, aged 43 years, Occ: Household, R/o 13-2-910/2, Puranapool, Rahipura, Hyderabad.
2. K Pandu @ Panu Chary, S/o Sathaiah, aged 45 years, Occ: Nil, R/o 13-2-910/2, Puranapool, Rahipura, Hyderabad.
3. K Bhavani, D/o K Pandu, Occ: Household, R/o 13-2-910/2, Puranapool, Rahipura, Hyderabad.

RESPONDENTS/PETITIONERS

4. Pawar Kailash Sukhdev, S/o not known, Occ: Business, R/o Rahirgaon, Kannad (Tq), Aurangabad Dist, MR.(Owner of the Tempo No.MH-AT-9283). (R-4 is not necessary)

...RESPONDENTS/RESPONDENTS

Appeals filed under Section 173 of M.V.Act., against the Order and decree dated 23.03.2013 passed in O.P.No.2534 of 2010 on the file of the Court of the Motor Accident Claims Tribunal-cum-II Additional Chief Judge, City Civil Court at Hyderabad.

ORDER: This appeals 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. T VISWARUPA CHARY, Advocate for the Appellants in MACMA.no.632 of 2014 and Respondents in MACMA.No.542 of 2014 and of SRI KOTA SUBBA RAO, Advocate for the Respondents and Appellant in MACMA.No.542 of 2014

The Court doth Order and Decree as follows:

1. That this MACMA.No. 542 of 2014 be and hereby is dismissed and MACMA.No.632 of 2014 be and hereby is partly allowed;
2. That the amount of compensation granted by the trial court is enhanced from Rs.7,30,000/- to Rs. 13,19,600/- (Rupees Thirteen lakhs Nineteen 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 respondents No.1 and 2 be and hereby are jointly and severally liable to pay compensation, respondent No.2 is directed to deposit the entire amount within a period of one month from the date of this Judgment;
4. That the petitioner No.3, sister of the deceased was aged 19 years as on the date of filing of the appeal in the year 2014 and she is dependent on her father, petitioner No.2, as such, she is not entitled for any compensation;
5. That on such deposit, petitioner Nos.1 and 2 be and hereby are permitted to withdraw the entire amount along with interest accrued on it equally;
6. That the appellants/petitioners be and hereby are directed to pay the deficit court fee on the enhanced amount;

7. That save as aforesaid, the decree of the lower tribunal shall stand confirmed in all other respects; and
8. That there shall be no order as to costs in this appeal.

SD/- MOHD. SANAULLAH ANSARI
ASSISTAT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Motor Accident Claims Tribunal-cum-II Additional Chief Judge, City Civil Court at Hyderabad.
2. Two CD Copies

Pr/AK

PS

HIGH COURT

DATED: 29/12/2023

**COMMON DECREE
MACMA.Nos.632 AND
542 OF 2014**

**DISMISSING THE MACMA.NO.542 OF 2014
AND
ALLOWING THE MACMA.NO.632 OF 2014**

4 copies
fr
6/3/24