

**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

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 97 OF 2015

Appeal filed under Section 173 of MV Act against Order and Decree dated 7-05-2014 made in O.P.No.638 of 2010 on the file of the Chairman, Motor Accident Claims Tribunal (District Judge) at Nizamabad

Between:

1. Burri Limbavva W/o. Burri Buchaiah, Age 52 years, Occ Household.
2. Burri Godavari D/o. Burri Buchaiah, Age 28 years, Occ Nil.
3. Burri Rajitha D/o. Burri Buchaiah, Age 26 years, Occ Nil.
4. Burri Ganga Prasad S/o. Burri Buchaiah, Age 24 years, Occ Nil.

All are R/o. H.No.6-8-130, Namdevwada, Nizamabad, Nizamabad District

...APPELLANTS/PETITIONERS

AND

1. Syed Yousuf Ali S/o. Mohd. Ali, Age major, Occ: Owner of Lorry bearing No. MH-29-7869, R/o. Azad Ward, Vasant Nagar, Purad D, Yavatmal.
2. National Insurance Company Limited, Through its Branch Manager, Purad, Yavatmal, (cover note No 114957, valid from 5-3-1999) Represented by its Branch Manager, Jawahar Road, Nizamabad.

...RESPONDENTS/RESPONDENTS

Counsel for the Appellants: SRI. S. SURENDER REDDY

Counsel for the Respondents: NONE APPEARED

The Court delivered the following JUDGMENT:

THE HONOURABLE SMT. JUSTICE P.SREE SUDHA

M.A.C.M.A.No.97 of 2015

JUDGMENT:

This appeal is filed against the Order dated 07.05.2014 in O.P.No.638 of 2010 passed by the Chairman, Motor Accidents Claims Tribunal (District Judge), Nizamabad.

2. The appellants/petitioners filed O.P.No.638 of 2010, claiming compensation of Rs.8,00,000/- for the death of the deceased, Burri Gangadhar in the road traffic accident occurred on 17.10.1999. The Police, Kamareddy, registered F.I.R. No.234 of 1999 under Section 304-A and 337 IPC against the driver of the crime vehicle.

3. The Trial Court considering the oral and documentary evidence granted Rs.6,00,000/- with interest @ 7.5% per annum from the date of petition to till the date of realization.

4. The learned Counsel for the appellants/petitioners contended that the contributory negligence of the deceased as 25% was taken by the Trial Court but there was no pleading in the counter regarding, and the age of the parents of the deceased was considered for taking the appropriate multiplier instead of considering the age of the deceased. Therefore, requested this Court to modify the order of the Trial Court.

5. On 17.10.1999, Burri Gangadhar/deceased was proceeding on the motorcycle bearing No.AP 25 C 2332 and Pradeep Kumar was the pillion rider. At 12.00 noon, they reached in front of Balaji Petrol Pump, Kamareddy and one lorry bearing No.MH 29-7869 at high speed in rash and negligent manner was going ahead of their motorcycle and the driver of the said lorry applied sudden brake in the middle of the road. As a result, Burri Gangadhar came under the lorry and sustained rupture of liver, heart and lungs and sustained grievous head injury and died on the way to hospital at Kamareddy.

6. Heard both sides. Perused the entire record.

7. As the driver of the lorry applied sudden brakes and the deceased was going behind the vehicle, the deceased went under the lorry and sustained injuries and he died. Therefore, it cannot be said that there was contributory negligence on the part of the deceased.

8. It was stated that he was working as beedi commission agent and also doing milk business and was earning Rs.20,000/- to Rs.25,000/-, but he has not filed any document. As such, the trial Court taken his income as Rs.8,000/- and

this court needs no reason to interfere with the salary taken by the trial Court.

9. 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 his personal expenses. Thus, the annual income of the deceased after deducting personal expenses comes to Rs.48,000/- per annum and the Hon'ble Apex Court in the dictum of **National Insurance Company Limited Vs. Pranay Sethi**², 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 and thus the amount would become Rs.67,200/-. 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 appellants/petitioners are entitled to Rs.12,09,600/- under the head 'Loss of Dependency'.

10. Besides, the appellants are also entitled for compensation under 'conventional heads' as prescribed in the dictum of **National Insurance Company Limited Vs. Pranay Sethi**, i.e.,

¹ (2009) 6 SCC 121

² (2017) 16 SCC 680

Rs.15,000/- towards loss of Estate and Rs.15,000/- towards funeral charges.

11. 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 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. Accordingly, it is just and reasonable to award Rs.40,000/- as filial consortium to the petitioners.

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

1.	Loss of dependency	Rs.12,09,600/-
2.	Conventional Heads	Rs.30,000/-
3.	Filial Consortium	Rs.40,000/-
TOTAL		Rs.12,79,600/-

³ (2018) 18 SCC 130

⁴ (2020) 9 SCC 644

13. In the result, the appeal is allowed by enhancing the compensation amount from Rs.6,00,000/- to Rs.12,79,600/- (Rupees Twelve Lakhs Seventy Nine Thousand Six Hundred only) with interest at the rate of 7.5% per annum from the date of filing the petition till date of realization. Respondent No.2 shall deposit the entire amount within a period of one month from the date of order. On such Deposit, the petitioners are permitted to withdraw the entire amount with the 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/- P. PADMANABHA REDDY
ASSISTANT REGISTRAR

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SECTION OFFICER

To,

1. The Chairman, Motor Accident Claims Tribunal (District Judge) at Nizamabad
2. One CC to SRI. S. SURENDER REDDY, Advocate [OPUC]
3. Two CD Copies

VH/kam

CHP

HIGH COURT
DATED: 29/12/2023

JUDGMENT

MACMA.No.97 of 2015



ALLOWING THE MACMA
WITHOUT COSTS

⑤ CHR 6/3/24

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
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...RESPONDENTS/RESPONDENTS

Appeal filed under Section 173 of MV Act against Order and Decree dated 7-05-2014 made in O.P.No.638 of 2010 on the file of the Chairman, Motor Accident Claims Tribunal (District Judge) at Nizamabad

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. S. Surender Reddy, Advocate for the Appellant and none appeared for Respondents either in person or Advocate.

This Court doth Order and Decree as follows:

1. This the Motor Accident Civil Miscellaneous Appeal be and hereby is allowed by enhancing the compensation amount from Rs. 6,00,000/- to Rs. 12,79,600/- (Rupees Twelve Lakhs Seventy Nine Thousand Six Hundred

- only) with interest at the rate of 7.5% per annum from the date of filing the petition till date of realization;
2. That the Respondent No.2 shall deposit the entire amount within a period of one month from the date of order;
 3. That on such deposit, the petitioners be and hereby are permitted to withdraw the entire amount with the interest accrued on it equally;
 4. That the appellants/petitioners be and hereby are directed to pay the deficit court fee on the enhanced amount;
 5. That save as aforesaid, the decree of the Lower Court shall stand confirmed in all other respects; and
 6. That there shall be no order as to costs in this appeal.

Sd/- P. PADMANABHA REDDY
ASSISTANT REGISTRAR

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SECTION OFFICER

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2. Two CD Copies

CHR

HIGH COURT
DATED: 29/12/2023

DECREE

MACMA.No.97 of 2015

ALLOWING THE MACMA
WITHOUT COSTS

(1) CHR
6/3/24