

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

**MONDAY, THE SEVENTEENTH DAY OF APRIL
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

MACMA NO: 1941 OF 2011 and MACMA NO. 546 OF 2023

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 1941 OF 2011

Appeal filed Under Section 173 of M.V.Act, aggrieved by the order and decree dated 01-06-2011 passed in O.P.No. 654 of 2008 on the file of the court of the Motor Accident Claim Tribunal-Cum-District Judge, Karimnagar.

Between:

Andhra Pradesh State Road Transport Corporation Represented its Divisional Manager, Musheerabad, Hyderabad.

...APPELLANT

AND

1. Pothula Kavitha W/o Late Narayana, Aged about 22 years, Occ: House hold
2. Pothula Sammakka W/o Sailu Aged about 44 years
3. Pothula Raju, S/o Sailu Aged about 24 years
4. Pothula Kalpana, D/o Sailu Aged about 21 years

All are residents of S.W.Colony, Huzurabad Town and Mandal, Karimnagar District.

...RESPONDENTS/PETITIONERS

5. Velpu Mogli, S/o Mallaiah Driver of APSRTC Bus bearing No.AP 11 Z 5543 of Huzurabad Depot R/o Kothapally Village, Bheedevarapally Mandal, Karimnagar District.

(R5 not necessary party)

...RESPONDENTS

MACMAMP. NO: 5206 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 vacate the stay granted in MACMA MP No. 3551 of 2011 in MACMA No. 1941 of 2011 dated 7-9-2011

MACMAMP. NO: 3551 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 stay all further proceedings in OP.NO. 654 of 2008 on the file of the Hon'ble Motor Accident Claim Tribunal-Cum-District Judge, Karimnagar, pending disposal of the main appeal

Counsel for the Appellant: SRI. GADDAM SRINIVAS (SC FOR TSRTC)

Counsel for the Respondents: SRI. A. V. K. S. PRASAD

The Court delivered the following: JUDGMENT

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 546 OF 2023

Appeal filed Under Section 173 of M.V.Act, aggrieved by the order and decree dated 01-06-2011 passed in O.P.No. 654 of 2008 on the file of the court of the Motor Accident Claim Tribunal-Cum-District Judge, Karimnagar.

Between:

1. Pothula Kavitha, W/o Late Narayana, Aged about 22 years, Occ Household,
2. Pothula Sammakka, W/o Sailu Aged about 44 years, Occ Household,
3. Pothula Raju, S/o Sailu, Aged about 24 years, Minor, Student,
4. Pothula Kalpana, D/o Sailu, Aged about 21 years, Minor, Student.

(All are residents of S.W. Colony, Huzurabad Town and Mandal, Karimnagar District)

...APPELLANTS/PETITIONERS

AND

1. Velpula Mogili, S/o Mallaiah, Aged about 49 years, Occ: Driver of APSRTC (BUS bearing No.AP 11 Z 5573 of Huzurabad Depot, R/o Kothapally Village, Bheemadevarapally Mandal, Karimnagar District.
2. Andhra Pradesh State Road Transport Corporation, Rep. by its Divisional Manager, Musheerabad, Hyderabad.

...RESPONDENTS

Counsel for the Appellants: SRI. A. V. K. S. PRASAD

Counsel for the Respondent No 1: NONE APPEARED

Counsel for the Respondent No 2: SRI. GADDAM SRINIVAS

The Court delivered the following: JUDGMENT

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

MA CMA No.1941 of 2011

and

MA CMA No.546 of 2023

COMMON JUDGMENT:

Since both these appeals arise out of the same award and decree, they are being disposed of by this common judgment.

2. MA CMA No.1941 of 2011 is preferred by the appellant-RTC aggrieved by the award and decree dated 01-06-2011 in O.P.No.654 of 2008 on the file of the Motor Accidents Claims Tribunal-cum-District Judge at Karimnagar. MA CMA (SR) No.53551 of 2011 is filed by the claimants seeking enhancement of the compensation awarded by the Tribunal in the said OP.

3. Heard learned counsel for the appellant-RTC Mr. Gaddam Srinivas and learned counsel for the claimants Mr. A.V.K.S.Prasad and perused the record.

4. The brief facts are that on 13-04-2008 at 3.00 PM., while the deceased Pothula Narayana was driving Tata India Car and reached near the agricultural field of Devasani Gal Reddy at the outskirts of Kothagattu Village, one RTC bus bearing No.AP-11Z-5543 driven by its driver in a rash and negligent manner with high speed and dashed against the car, due to which the front portion of the car badly damaged and the car turned turtle, went into the fields and stopped near the trees, as a result, the deceased Narayana sustained severe injuries on his head and died on the spot. The claimants have filed OP., claiming

compensation of Rs.10,00,000/- for the death of the deceased in the accident.

5. Respondent-RTC filed counter denying the manner of accident, rash and negligent driving of the driver of the crime vehicle and the death of the deceased. It is stated that the deceased was driving the vehicle in a rash and negligent manner and by talking with a cell phone he came on wrong side and dashed against the stationed bus, which was stopped on the extreme right side of the road, and the front portion of the bus was badly damaged. It is stated that the owner and Insurer of India Car are necessary parties to the claim petition. It is stated that the amount claimed is highly excessive and exorbitant.

6. The Tribunal on analyzing the oral and documentary evidence has granted compensation of Rs.6,11,072/- with interest at 7.5% per annum from the date of petition till the date of deposit.

7. Learned counsel for the claimants submits that when there are four claimants, the Tribunal in spite of deducting 1/4th amount towards personal expenses of the deceased, 1/3rd amount was deducted. He has relied on the judgment of the Apex Court in **Parminder Singh vs. New India Assurance Company Limited and others**¹ and submits that the Tribunal ought to have taken the income of the deceased at Rs.10,000/- per month. He submits that the Tribunal, without following the settled law and applying the correct law, has granted compensation.

¹ 2019(5) ALD 62 (sc)

8. Learned counsel for the RTC submits that the Tribunal, without any evidence, ought to have taken a sum of Rs.4,000/-per month as the income of the deceased . He submits that no evidence was let in by the claimants in support of the income of the deceased. He further submits that the Tribunal without appreciating the facts in proper perspective has granted compensation, which is excessive.

9. In this factual backdrop, the point that arises for determination is whether the compensation awarded by the Tribunal to the claimants is just and proper.

10. The Honourable Apex Court in **Minu Rout and another Vs. Satya Pradyumna Mohapatra and others**² took the income of the driver at Rs.6,000/- per month. Hence, this Court is inclined to take a sum of Rs.6,000/- per month as the income of the deceased. As the age of the deceased was 26 years, 40% future prospects i.e., Rs.2,400/- should be added and then, it would come to Rs.8,400/-per month. As there are four claimants, 1/4th amount i.e., Rs.2,100/- is deducted towards personal expenses of the deceased and then it would come to Rs.6,300/-. As the multiplier applicable is '17', loss of dependency would come to Rs.6,300/-x12x17=12,85,200/-. Apart from that the claimants are entitled for a sum of Rs.33,000/- towards funeral expenses and loss of estate, Rs.44,000/-each to the claimants towards consortium i.e., Rs.1,76,000/-. Thus in total, the claimants are entitled for compensation of Rs.14,94,200/- for the death of the deceased in the accident.

² (2013) 10 SCC 695

11. Learned counsel for the appellants/claimants has relied on the judgment passed by the Hon'ble Apex Court in **V.Mekala v. M.Malathi and another**³ wherein the Hon'ble Apex Court, taking into consideration the date of the accident and till the appeal reached to the Apex Court, has awarded a sum of Rs.25,000/- towards cost of litigation. Hence, an amount of Rs.10,000/- is awarded towards cost of litigation.

12. In the light of the above discussion, the claimants are entitled for compensation under the following heads;

1. Loss of dependency	--	Rs.12,85,200/-
2. Consortium	--	Rs. 1,76,000/-
3. Funeral expenses	--	Rs. 33,000/-
4. Legal expenses	--	Rs. 10,000/-

Total: Rs. 15,04,200/-

13. In the result, MA CMA No.1941 of 2011 is dismissed and MA CMA (SR) No.53551 of 2011 is allowed enhancing the compensation amount awarded by the Tribunal from Rs.6,11,072/- to Rs.15,04,200/-.

(a) The enhanced amount shall carry interest at 7.5% per annum from the date of petition till the date of realization.

(b) The claimants shall pay the Court fee on the enhanced amount.

(c) The respondent-RTC shall deposit the compensation within a period of 8 weeks from the date of receipt of a copy of this judgment. On such deposit and on payment of Court fee, the claimants are permitted to

³ 2014 (5) ALD 42 (SC).

withdraw the compensation as per their respective shares apportioned by the Tribunal without furnishing any security.

14. Miscellaneous petitions, if any pending in these appeals, shall stand closed.

Sd/- MOHD. SANAULLAH ANSARI
ASSISTANT REGISTRAR

//TRUE COPY//


SECTION OFFICER

To,

1. The Motor Accident Claim Tribunal-Cum-District Judge, Karimnagar (with records, if any)
2. One CC to SRI. GADDAM SRINIVAS, Advocate [OPUC]
3. One CC to SRI. A. V. K. S. PRASAD, Advocate [OPUC]
4. Two CD Copies

VII





HIGH COURT

LK, J

DATED: 17/04/2023

JUDGMENT

MACMA.No.1941 of 2011

AND

MACMA.No.546 OF 2023



DISMISSING THE

MACMA.No.1941 OF 2011

AND

ALLOWING THE

MACMA.No.546 OF 2023

6
KMA
12/8/2023

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

**MONDAY, THE SEVENTEENTH DAY OF APRIL
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PRESENT

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

MACMA NO: 1941 OF 2011 and MACMA NO. 546 OF 2023

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 1941 OF 2011

Between:

Andhra Pradesh State Road Transport Corporation Represented its Divisional
Manager, Musheerabad, Hyderabad.

...APPELLANT

AND

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All are residents of S.W.Colony, Huzurabad Town and Mandal, Karimnagar
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...RESPONDENTS/PETITIONERS

5. Velpu Mogli, S/o Mallaiah Driver of APSRTC Bus bearing No.AP 11 Z 5543 of
Huzurabad Depot R/o Kothapally Village, Bheedevarapally Mandal,
Karimnagar District.

(Respondent No.5 not necessary)

...RESPONDENTS

Appeal filed Under Section 173 of M.V.Act, aggrieved by the order and
decree dated 01-06-2011 passed in O.P.No. 654 of 2008 on the file of the court
of the Motor Accident Claim Tribunal-Cum-District Judge, Karimnagar.

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 546 OF 2023

Between:

1. Pothula Kavitha, W/o Late Narayana, Aged about 22 years, Occ Household,
2. Pothula Sammakka, W/o Sailu Aged about 44 years, Occ Household,
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2. Andhra Pradesh State Road Transport Corporation, Rep. by its Divisional Manager, Musheerabad, Hyderabad.

...RESPONDENTS

Appeal filed Under Section 173 of M.V.Act, aggrieved by the order and decree dated 01-06-2011 passed in O.P.No. 654 of 2008 on the file of the court of the Motor Accident Claim Tribunal-Cum-District Judge, Karimnagar.

This appeal coming on for hearing and upon perusing the Memorandum of Appeal, the order of the Lower Court and the material papers in the case, and upon hearing the arguments of Sri GADDAM SRINIVAS, Advocate, for the Appellant in MACMA No. 1941 of 2011 and for respondent no. 2 in MACMA No. 546 of 2023, Sri A.V.K.S. PRASAD, Advocate, appeared for the respondents in MACMA No. 1941 of 2011 and for Appellants in MACMA No. 546 of 2023, none appeared, Advocate for respondent No. 1 in MACMA No. 546 of 2023

Decree: This Court Doth order and Decree as here under:

1. That the MACMA No. 1941 of 2011 be and hereby is dismissed;

2. That the MACMA No. 546 of 2023 be and hereby is allowed enhancing the compensation amount awarded by the tribunal from Rs. 6,11,072 to Rs. 15,04,200/-;
3. That the enhanced amount shall carry interest at 7.5% per annum from the date of petition till the date of realization;
4. That the claimants shall pay the Court fee on the enhanced amount;
5. That the respondent-RTC shall deposit the compensation within a period of 8 weeks from the date of receipt of a copy of this judgment;
6. That on such deposit and on payment of Court fee, the claimants be and hereby are permitted to withdraw the compensation as per their respective shares apportioned by the Tribunal without furnishing any security;
7. That save as aforesaid, the decree of the lower Court shall stand confirmed in all other respects; and
8. That there shall be no order as to costs to this M.A.C.M.A.

Sd/- MOHD. SANAULLAH ANSARI
ASSISTANT REGISTRAR

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SECTION OFFICER

To,

1. The Motor Accident Claim Tribunal-Cum-District Judge, Karimnagar
2. Two CD Copies



HIGH COURT

LK, J

DATED: 17/04/2023

JUDGMENT

MACMA.No.1941 of 2011

AND

MACMA.No.546 OF 2023

DISMISSING THE

MACMA.No.1941 OF 2011

AND

ALLOWING THE

MACMA.No.546 OF 2023

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MACMA
17/04/2023