IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WEDNESDAY, THE TWENTY FIRST DAY OF FEBRUARY TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SMT JUSTICE M.G.PRIYADARSINI

MACMA NO: 619 OF 2018 & 366 of 2020

MACMA NO: 619 OF 2018

Appeal filed under Section 173 of Motor Vehicles Act against Order and Decree dated 31.08.2017 made in MVOP.No. 2440 of 2016 on the file of the Court of the Motor Accident Claims Tribunal-Cum-XXVI Additional Chief Judge, City Civil Courts at Hyderabad.

Between:

1. Telengana State Road Transport Corporation, represented by its Managing Director, Bus Bhavan, Musheerabad, Hyderabad.
2. Depot Manager, Telangana State Road Transport Corporation, Sattupally Bus-Depot, Khammam District.

...APPELLANTS/RESPONDENTS

AND

1. P. Yadagiri, S/o. Late P. Pentaiah, Aged about 55 years, Nil, R/o. 3-9-554, Arruna Daya Colony, Mansurabad, L.B. Nagar, Ranga Reddy District.
2. P. Prem Kumar, S/O. P. Yadagiri, Aged about 35 years, Business, R/o. 3-9-554, Amnia Daya Colony, Mansurabad, L.B. Nagar, Ranga Reddy District.
3. P. Pradeep Kumar,, S/o. P. Yadagiri, Aged about 30 years, Business, Rio. 3-9-554, Amina Daya Colony, Mansurabad, L.B. Nagar, Ranga Reddy District.
4. P. Srinivas,, S/o. P. Yadagiri, Aged about 27 years, Business, R/o. 3-9-554, Arnma Daya Colony, Mansurabad, L.B. Nagar, Ranga Reddy District.

...RESPONDENTS/PETITIONERS

IA NO: 1 OF 2018

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 judgment and decree of the Motor Accident Claims Tribunal-cum-XXVI Additional Chief Judge, City Civil Court at Hyderabad dated.31/08/2017 made in MVOP.No.2440 of 2016.

IA NO: 1 OF 2019

Between:

1. P. Yadagiri, S/o. Late P. Pentaiah, Aged about 55 years, Nil, R/o. 3-9-554, Arruna Daya Colony, Mansurabad, L.B. Nagar, Ranga Reddy District.
2. P. Prem Kumar, S/o. P. Yadagiri, Aged about 35 years, Business, R/o. 3-9-554, Amnia Daya Colony, Mansurabad, L.B. Nagar, Ranga Reddy District.
3. P. Pradeep Kumar,, S/o. P. Yadagiri, Aged about 30 years, Business, Rio. 3-9-554, Amina Daya Colony, Mansurabad, L.B. Nagar, Ranga Reddy District.
4. P. Srinivas,, S/o. P. Yadagiri, Aged about 27 years, Business, R/o. 3-9-554, Amma Daya Colony, Mansurabad, L.B. Nagar, Ranga Reddy District.

... PETITIONERS/RESPONDENTS/CLAIMANTS

AND

1. Telengana State Road Transport Corporation, represented by its Managing Director, Bus Bhavan, Musheerabad, Hyderabad.
2. Depot Manager, Telangana State Road Transport Corporation, Sattupally Bus-Depot, Khammam District.

...RESPONDENTS/PETITIONERS/APPELLANTS

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 INTERIM STAY ORDER, Dated.18-04-2019 passed in IA no.1 of 2018 in MACMA no.619 of 2018.

MACMA NO: 366 OF 2020

Appeal filed under Section 173 of Motor Vehicles Act against Order and Decree dated 31.08.2017 made in MVOP.No. 2440 of 2016 on the file of the Court of the Motor Accident Claims Tribunal-Cum-XXVI Additional Chief Judge, City Civil Courts at Hyderabad.

Between:

1. P. Yadagiri, S/o. Late P.Pentaiah, aged about. 55 Years, Nil. R/o. 3-9-554, Amma Daya Colony, Mansurabad, L.B.Nagar, Ranga Reddy District .
2. P. Prem Kumar, S/o. P. Yadagiri, aged about. 35 Years, Business, R/o. 3-9-554, Anima Daya Colony, Mansurabad, L.B.Nagar, Ranga Reddy District .
3. P. Pradeep Kumar, S/o. P. Yadagiri, aged about. 30 Years, Business, R/o. 3-9-554, Amma Daya Colony, Mansurabad, L.B.Nagar, Ranga Reddy District
4. P. Srinivas, S/o. P. Yadagiri, aged about. 27 Years, Business, R/o. 3-9- 554, Amnia Daya Colony, Mansurabad, L.B.Nagar, Ranga Reddy District

...APPELLANTS/CLAIMANTS

AND

1. Telangana State Road Transport Corporation, Represented by its Managing Director, Bus Bhavan, Musheerabad, Hyderabad.
2. Depot Manager, Telangana State Road Transport Corporation, Sathupally Bus Depot, Khammam District.

...RESPONDENTS/RESPONDENTS

Counsel for the Appellants in MACMA No. 619 of 2018 and for Respondents in MACMA.No. 366 of 2020 : **SRI. THOOM SRINIVAS (SC FOR TSRTC)**

Counsel for the Respondents in MACMA No. 619 of 2018 and for Appellants MACMA.No. 366 of 2020 : **SRI. C.M. PRAKASH**

The Court delivered the following COMMON JUDGMENT:

THE HONOURABLE SMT. JUSTICE M.G.PRIYADARSINI

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL Nos. 619 of 2018 & 366 of 2020

COMMON JUDGMENT:

The Motor Accident Civil Miscellaneous Appeal No.619 of 2018 is filed aggrieved by the Order and Decree dated 31.08.2017 (impugned Order) passed in Motor Vehicle Original Petition No.2440 of 2016 by the learned Motor Vehicle Accident Claims Tribunal-cum-XXVI Additional Chief Judge, City Civil Courts at Hyderabad (for short "the Tribunal"), the appellants-respondents preferred the present Appeal praying this Court to set aside the impugned Order.

02. The Motor Accident Civil Miscellaneous Appeal No.366 of 2020 is filed dissatisfied with the quantum of compensation awarded vide impugned Order by the learned the Tribunal, the appellants-petitioners preferred the present Appeal praying this Court seeking enhancement of the compensation amount.

03. As the both Appeals arising out of same impugned Order, the parties are one and the same and

both these Appeals are interlinked with each other, these Appeals are being disposed of by way of this Common Judgment.

04. For the sake of convenience, hereinafter, the parties will be referred to as per their array before the Tribunal.

05. Brief facts of the case are that:

Petitioners No.1 to 4 filed a petition under Section 166 of the Motor Vehicle Act, 1989 and Rule 475/1 of the Andhra Pradesh Motor Vehicle Rules, 1989 before the learned Tribunal, claiming compensation of Rs.10,00,000/- for the death of Sri P.Yashoda (hereinafter referred to as 'the deceased'), who died in a Motor Vehicle Accident that occurred on 12.03.2016. Petitioner No.1 is the husband and petitioner Nos.2 to 4 are children of petitioner No.1 and deceased.

06. According to the petitioners, on 12.03.2016 at about 16:15 hours, the deceased was proceeding as a pillion rider on Motorcycle bearing No. TS 08 EB 6445 on the way of her residence towards LB Nagar, when they

reached near Raghavendra Tiffin Center, Chintalkunta, Vanasthalipuram and while taking right turn, the driver of TSRTC Bus bearing No. TS 04 Z 0150 came in rash and negligent manner from Hayathnagar side and dashed the motorcycle, due to which the deceased fell down on the road and sustained grievous bleeding injuries and died on the spot. A case in Crime No.195 of 2016 by the Police, Vanasthalipuram was registered for the offence under Section 304-A of the Indian Penal Code, against the driver of the RTC bus.

07. As per the petitioners, the deceased was aged about 45 years at the time of accident and she was doing Tailoring work and used to earn Rs.10,000/- per month and used to contribute the same for maintenance of her family. Due to sudden death of the deceased, the petitioners lost their beloved family member and suffered mental agony.

08. Respondents-RTC filed counter denying rash and negligent driving by the driver of the RTC bus and the manner of occurrence of the accident. Further, the age,

avocation was also denied. It is contended that there was contributory negligence on the part of the deceased and that the compensation claimed is excessive and exorbitant and prayed to dismiss the petition.

09. On the basis of the above pleadings, the following issues were settled:

i. Whether the pleaded accident was occurred resulting in death of the deceased, due to rash and negligent driving by the driver of TSRTC Bus bearing No. TS 04 Z 0150 ?

ii. Whether the petitioners are entitled to any and if so, at what quantum and what is the liability of the respondents?

iii. To what relief ?

10. Before the learned Tribunal, the petitioners got examined petitioner No.1 as PW1 and got marked Exs.A1 to A6. No oral or documentary was adduced on behalf of respondents.

11. Considering the claim of the petitioners and counter filed by respondents and on evaluation of oral and documentary evidence available on record, the Tribunal partly allowed the Motor Vehicle Original Petition, awarding

an amount of Rs.7,49,000/- towards compensation along with interest @ 6 % per annum from the date of petition till the date of realization, to be deposited by respondents.

12. Challenging the impugned Order and decree appellants-respondents-RTC filed the Motor Accident Civil Miscellaneous Appeal No.619 of 2018 and challenging the quantum of compensation, appellants-petitioners have filed this Motor Accident Civil Miscellaneous Appeal No.366 of 2020 seeking enhancement of compensation amount.

13. Heard the learned counsel appearing for claim petitioners as well as learned Standing Counsel appearing on behalf of Telangana State Road Transport Corporation. Perused the material available on record.

14. The main contention of the learned counsel for claim petitioners is that though the appellants proved their case by adducing cogent evidence apart from relying on the documents under Exs.A1 to A6, the learned Tribunal without considering the same, erroneously awarded meager amount towards compensation and prayed to enhance the compensation amount.

15. On the other hand, the learned Standing Counsel for Telangana State Road Transport Corporation has contended that there was contributory negligence on the part of the driver of the deceased and that the owner and insurer of the motorcycle were not shown as parties and sought for dismissal of the claim petition.

16. Now the point for consideration is that:

Whether the claim petitioners are entitled for enhancement of compensation amount in addition to the compensation amount granted vide impugned Order and Decree passed by the Tribunal, or whether the impugned Order is liable to be set aside?

POINT:

17. This Court has perused the entire evidence and documents available on record.

18. PW1 who is the husband of the deceased reiterated the contents of the claim application and got marked Ex.A1 to A6. He deposed that he was riding the motorcycle and his wife-deceased was travelling on his motorcycle as pillion rider and when they reached near Raghavendra Tiffin Center, Chintalkunta, Vanasthalipuram

and while taking right turn, the driver of TSRTC Bus bearing No. TS 04 Z 0150 came in rash and negligent manner from Hayathnagar side and dashed his motorcycle, due to which she sustained fatal injuries and died on the spot.

19. Apart from oral evidence, petitioners have also relied upon documentary evidence marked under Exs.A1 to A6. A perusal of Ex.A1-FIR discloses that based on a complaint, a case in Crime No.195 of 2016 was registered by Police, Vanasthalipuram for the offence under Section 304-A of the Indian Penal Code, against the driver of the RTC bus and took up investigation and laid Ex.A2-Charge sheet filed against the driver of the RTC bus. Ex.A3-Inquest report and Ex.A5-scene of offence panchanama also discloses that the deceased died in the road traffic accident due to injury on back side of the head. Ex.A4-Postmortem examination report shows that the deceased died due to head injury. Ex.A6-Motor Vehicle Inspector Report shows that there was no mechanical defect in the RTC bus.

20. As regards the manner of accident is concerned, the Tribunal after evaluating the oral and documentary evidence available on record, held that the accident occurred due to rash and negligent driving of the driver of RTC Bus. Therefore, this Court is not inclined to interfere with the said findings of the Tribunal which are based on appreciation of evidence in proper perspective. It is pertinent to state that PW1-husband of the deceased who was the rider of the motorcycle, being eyewitness categorically deposed about the manner of the accident. Furthermore, RTC before the Tribunal, except taking pleas did not adduce any oral or documentary evidence to disprove the evidence of PW1. Hence, learned Tribunal after considering above all aspects answered the issue in favour of petitioners. Further, Police after thorough investigation laid charge sheet against the bus driver stating that the accident occurred due to rash and negligent driving of the RTC bus driver. Therefore, there is no contributory negligence on the part of PW1 in the road traffic accident and the Motor Accident Civil Miscellaneous Appeal No.619 of 2018 filed by Telangana State Road

Transport Corporation is liable to be dismissed as devoid of merits.

21. In so far as the quantum of compensation is concerned, as per the petitioners the deceased was doing tailoring work and earning Rs.10,000/- per month. However, no oral or documentary evidence was adduced by petitioners to prove the income of the deceased. As per decision of the Honourable Supreme Court in ***Kirti v. Oriental Insurance Company Limited***[1] wherein it was held that:

> *"One category of nonearning victims that Courts are often called upon to calculate the compensation for are homemakers. The granting of compensation for homemakers on a pecuniary basis, as in the present case, has been considered by this Court earlier on numerous occasions. A Three Judge Bench of this Court in Lata Wadhwa v. State of Bihar, (2001) 8 SCC 197, while dealing with compensation for the victims of a fire during a function, granted compensation to housewives on the basis of the services rendered by them in the house, and their age."*

[1] AIR 2021 SUPREME COURT 353

22. In view of the above decision, the deceased in the case on hand is also a housemaker and learned Tribunal has taken her monthly income as Rs.3,000/- which is at lower side and appears to be meager. Therefore, this Court is of the considered opinion that the monthly income of the deceased can be taken as Rs.6,000/-. Petitioner claimed that the deceased was aged about 45 years by the date of accident but as per Ex.A4-PME report, the deceased was aged about 50 years at the time of accident. Therefore, the age of the deceased is taken as 50 years by the time of accident. In view of the decision of the Honourable Apex Court in ***National Insurance Company Limited v. Pranay Sethi and others***[2] 25% i.e., Rs.1,500/- towards future prospects can duly be added thereto, which comes to Rs.7,500/- (Rs.6,000/- + Rs.1,500/-). Hence, this Court is inclined to fix the annual income of the deceased at Rs.90,000/- (Rs.7,500x12). Since the deceased was having four dependents, after deducting

[2] 2017 ACJ 2700

1/4th income (Rs.22,500/-) towards personal expenses of the deceased, as per the decision of the Honourable Apex Court in ***Smt.Sarla Varma v. Delhi Transport Corporation and another***[3], the net annual contribution to the family comes to Rs.67,500/- (Rs.90,000/- - Rs.22,500/-).

23. As seen from the evidence, the deceased was 50 years at the time of fatal accident. Therefore, as per the decision of the Honourable Apex Court in ***Smt.Sarla Varma*** (supra), the appropriate multiplier is '13'. Thus, applying the multiplier '13' to the annual loss of dependency, which is already arrived at Rs.67,500/-, the total loss of dependency comes to Rs.8,77,500/- (Rs.67,500/- x 13). In addition to that, the petitioners are entitled to Rs.77,000/- under the conventional heads (Rs.70,000/- + 10% enhancement thereon). Thus, in all, the petitioners are entitled to compensation of Rs.9,54,500/-. The compensation amount is enhanced to Rs.9,54,500/- from Rs.7,49,000/-. The enhanced compensation amount shall carry interest at the rate of 7.5

[3] 2009 (6) SCC 121

percent per annum. The enhanced compensation amount shall be deposited by respondents within a period of one month from the date of receipt of a copy of this Judgment. On such deposit, the petitioners are entitled to withdraw the same without furnishing any security.

24. In the result, Motor Accident Civil Miscellaneous Appeal No.619 of 2018 filed by RTC is hereby dismissed. The Motor Accident Civil Miscellaneous Appeal No.366 of 2020 filed by claim petitioners is partly allowed enhancing the compensation amount awarded by the Tribunal from Rs.7,49,000/- to Rs.9,54,500/-. There shall be no order as to costs.

Sd/- T JAYASREE
ASSISTANT REGISTRAR

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SECTION OFFICER

To

1. The Motor Accident Claims Tribunal-Cum-XXVI Additional Chief Judge, City Civil Courts at Hyderabad (with records)
2. One CC to SRI. THOOM SRINIVAS, Advocate [OPUC]
3. One CC to SRI. C.M.PRAKASH Advocate [OPUC]
4. Two CD Copies

VH/PR

HIGH COURT

DATED: 21/02/2024

COMMON JUDGMENT

MACMA.No.619 of 2018
AND
MACMA.No.366 of 2020



DISMISSING THE
MACMA.No.619 of 2018
AND
PARTLY ALLOWING THE
MACMA.No.366 of 2020

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8/4/24

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WEDNESDAY, THE TWENTY FIRST DAY OF FEBRUARY TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SMT JUSTICE M.G.PRIYADARSINI

MACMA NO: 619 OF 2018 & 366 of 2020

MACMA NO: 619 OF 2018

Between:

1. Telengana State Road Transport Corporation, represented by its Managing Director, Bus Bhavan, Musheerabad, Hyderabad.
2. Depot Manager, Telangana State Road Transport Corporation, Sattupally Bus-Depot, Khammam District.

...APPELLANTS/RESPONDENTS

AND

1. P. Yadagiri, S/o. Late P. Pentaiah, Aged about 55 years, Nil, R/o. 3-9-554, Arruna Daya Colony, Mansurabad, L.B. Nagar, Ranga Reddy District.
2. P. Prem Kumar, S/O. P. Yadagiri, Aged about 35 years, Business, R/o. 3-9-554, Amnia Daya Colony, Mansurabad, L.B. Nagar, Ranga Reddy District.
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4. P. Srinivas,, S/o. P. Yadagiri, Aged about 27 years, Business, R/o. 3-9-554, Amma Daya Colony, Mansurabad, L.B. Nagar, Ranga Reddy District.

...RESPONDENTS/PETITIONERS

MACMA NO: 366 OF 2020

Between:

1. P. Yadagiri, S/o. Late P.Pentaiah, aged about. 55 Years, Nil. R/o. 3-9-554, Amma Daya Colony, Mansurabad, L.B.Nagar, Ranga Reddy District.
2. P. Prem Kumar, S/o. P. Yadagiri, aged about. 35 Years, Business, R/o. 3-9-554, Anima Daya Colony, Mansurabad, L.B.Nagar, Ranga Reddy District.
3. P. Pradeep Kumar, S/o. P. Yadagiri, aged about. 30 Years, Business, R/o. 3-9-554, Amma Daya Colony, Mansurabad, L.B.Nagar, Ranga Reddy District.
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AND

1. Telangana State Road Transport Corporation, Represented by its Managing Director, Bus Bhavan, Musheerabad, Hyderabad .
2. Depot Manager, Telangana State Road Transport Corporation, Sathupally Bus Depot, Khammam District

...RESPONDENTS/RESPONDENTS

Appeals filed under Section 173 of Motor Vehicles Act against Order and Decree dated 31.08.2017 made in MVOP.No. 2440 of 2016 on the file of the Court of the Motor Accident Claims Tribunal-Cum-XXVI Additional Chief Judge, City Civil Courts at Hyderabad.

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. THOOM SRINIVAS, Advocate for the Appellants in MACMA No. 619 of 2018 and for Respondents in MACMA.No. 366 of 2020 and SRI. C. M. PRAKASH, Advocate for the Respondents in MACMA No. 619 of 2018 and for Appellants MACMA.No. 366 of 2020.

This Court doth Order and Decree as follows:

1. That the MACMA.No. 619 of 2018 filed by RTC is hereby dismissed;
2. That the MACMA.No. 366 of 2020 filed by claim petitioners be and hereby is partly allowed enhancing the compensation amount awarded by the Tribunal from Rs. 7,49,000/- to Rs.9,54,500/-;
3. That the enhanced compensation amount shall carry interest at the rate of 7.5 percent per annum;
4. That the enhanced compensation amount shall be deposited by respondents within a period of one month from the date of receipt of a copy of this Judgment;
5. That on such deposit, the petitioners are entitled to withdraw the same without furnishing any security;
6. That save as aforesaid, the decree of the Lower Court shall stands confirmed in all other respects; and
7. That there shall be no order as to costs in this appeal.

Sd/- T JAYASREE
ASSISTANT REGISTRAR

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SECTION OFFICER

To

1. The Motor Accident Claims Tribunal-Cum-XXVI Additional Chief Judge, City Civil Courts at Hyderabad
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HIGH COURT

MGP, J

DATED: 21/02/2024

COMMON DECREE

MACMA.No.619 of 2018
AND
MACMA.No.366 of 2020

DISMISSING THE
MACMA.No.619 of 2018
AND
PARTLY ALLOWING THE
MACMA.No.366 of 2020

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