

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

TUESDAY, THE TWENTY FOURTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SMT JUSTICE M.G.PRIYADARSINI

MACMA NO: 527 OF 2020
AND
CROSS-OBJECTIONS No. 1 OF 2021

MACMA NO: 527 OF 2020

Appeal filed under Section 173 of Motor Vehicles Act against the order and Decree dt. 23/04/2019 made in MVOP. No. 310 of 2018 on the file of the Court of the Motor Accidents Claims Tribunal (Principal District Judge) at Nizamabad.

Between:

1. Director Telangana State Road Transport Corporation, Represented by its Managing Director, Musheerabad, Hyderabad.
2. Telangana State Road Transport Corporation, Represented by its Depot Manager, Nirmal Depot, Nirmal District. (bus bearing No. TS 18 Z 0029).

...APPELLANTS/RESPONDENTS

AND

1. Tejawath Gangu Bhai and Another, W/o. Regya or Raghunath, Aged 42 years, Occ. Household, R/o. H. No. 1-88/1, Bhairapur Village, Mugpal (Mopal) Mandal, Nizamabad District.
2. Tejawath Mohan, S/o. Regya or Raghunath, Aged 22 years, Occ. Unemployee, R/o. H. No. 1-88/1, Bhairapur Village, Mugpal (Mopal) Mandal, Nizamabad District.

...RESPONDENTS/PETITIONERS

IA NO: 3 OF 2020

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 grant stay of execution of the Judgment and Decree of the Court of the Motor Accidents Claims

Tribunal (Principal District Judge) at Nizamabad, dt. 23.04.2019, made in MVOP. No. 310 of 2018, pending disposal of the above M.A.C.M.A No.528/2019.

IA NO: 4 OF 2020

Between:

1. Tejawath Gangu Bhai W/o. Regya @ Raghunath, Aged 43 years, Occ. House-hold, R/o. H. No. 1-88/1, Bhairapur Village, Mugpal (Mopal) Mandal, Nizamabad District.
2. Tejawath Mohan, S/o. Regya @ Raghumnath, Aged 23 years, Occ. Unemployed, R/o. H. No. 1-88/1, Bhairapur Village, Mugpal (Mopal) Mandal, Nizamabad District.

...PETITIONERS/RESPONDENTS

AND

1. Telangana State Road Transport Corporation, Rep: by its Managing Director, Musheerabad, Hyderabad.
2. Telangana State Road Transport Corporation, Rep: by its Depot Manager, Nirmal Depot, (Nirmal District) Nizamabad.

...RESPONDENTS/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 permit the petitioners to withdraw the deposited amount by the respondents herein before the Court of the Motor Accident Claims Tribunal (Prl Distirict Judge) at Nizamabad by vacating the interim stay granted in IA.No.3 of 2020 in MACMA No.527 of 2020 on 10-11-2020.

Counsel for the Appellants: Sri R Anurag (SC FOR TSRTC)

Counsel for the Respondents: Amrutha Sanjeeva

CROSS OBJECTIONS NO. 1 of 2021

Memorandum of Cross Objections filed under order 41, Rule 22 of CPC against the order and Decree dt. 23/04/2019 made in MVOP. No. 310 of 2018 on the file of the Court of the Motor Accidents Claims Tribunal (Principal District Judge) at Nizamabad.

Between:

1. Tejawath Gangu Bhai W/o. Regya @ Raghunath, Aged 43 years, Occ. House-hold, R/o. H. No. 1-88/1, Bhairapur Village, Mugpal (Mopal) Mandal, Nizamabad District.
2. Tejawath Mohan, S/o. Regya @ Raghumnath, Aged 23 years, Occ. Unemployed, R/o. H. No. 1-88/1, Bhairapur Village, Mugpal (Mopal) Mandal, Nizamabad District.

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AND

1. Telangana State Road Transport Corporation, Rep: by its Managing Director, Musheerabad, Hyderabad.
2. Telangana State Road Transport Corporation, Rep: by its Depot Manager, Nirmal Depot, (Nirmal District) Nizamabad.

...RESPONDENTS/APPELLANTS

Counsel for the Cross-Objectors: Sri Amrutha Sanjeeva

Counsel for the Respondents: Sri R. Anurag (SC FOR TSRTC)

The Court delivered the following COMMON JUDGMENT

THE HONOURABLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A.No.527 of 2020

AND

CROSS-OBJECTIONS No.1 of 2021

COMMON JUDGMENT:

1. Aggrieved by the Decree and order dated 23.04.2019 passed in M.V.O.P.No.310 of 2018, on the file of the Motor Accident Claims Tribunal (Principal District Judge), Nizamabad, (for short, 'the Tribunal'), M.A.C.M.A.527 of 2020 is filed by the Appellant/TSRTC seeking to allow the Appeal by setting aside the order of the learned Tribunal. Also, having not satisfied with the compensation amount awarded by the learned Tribunal, the claim petitioners in the said M.V.O.P. filed Cross Objections No.1 of 2021 seeking enhancement of compensation amount.

2. For the sake of convenience, the parties hereinafter be referred as they were arrayed before the Tribunal.

3. The facts of the case in brief are that the petitioners, who are the wife and son of Late Tejavath Regya @ Raghunath (hereinafter referred as 'the deceased') filed a petition under Section 166 of the Motor Vehicles Act claiming compensation of Rs.20,00,000/- on account of the death of the deceased in a motor vehicle accident that occurred on 25.03.2018. It is stated by the petitioners that on 25.03.2018 at about 3.45 p.m., when the

deceased along with one Banoth Vasanth Rao were going on Motorcycle Bearing No.TS-16EP-5525 on NH-44 from their Village in order to distribute wedding cards and when reached Indalwai Village 'U' turn, one RTC Bus Bearing No.TS-18Z-0029 belonging to Nirmal depot and which was being driven by its driver in a rash and negligent manner, lost control over the bus and dashed the motorcycle of the deceased from its behind, due to which, the deceased and Banoth Vasanth Rao fell down from the motorcycle and sustained multiple fractures to skull, fracture of left hand, fracture of right leg and grievous injuries all over the body and was shifted to Government General Hospital, Nizamabad and on the way to Hospital, he died.

4. Based on a complaint, Police of Indalwai Police Station registered a case in Crime No.43 of 2018 under Sections 304A and 337 IPC. It is stated by the petitioners that the deceased was aged 44 years and was doing agriculture, maintaining Dairy farm and Milk business and used to earn Rs.40,000/- per month and contribute the same towards maintenance of his family. Due to his sudden death, the petitioners lost his love and affection and became destitute and hence filed a petition claiming compensation of Rs.20,00,000/- against the Respondent Nos.1 & 2/TSRTC.

5. Respondent Nos.1&2/TSRTC filed a joint counter denying the averments made in the claim petition and contended that the accident occurred due to rash and negligence on part of bike rider and that the claim petition is liable to be dismissed on the ground of non-joinder of owner and insurer of the bike bearing No.TS-16EP-5525 as necessary parties and that the compensation claimed is excess and exorbitant and hence prayed to dismiss the claim against it.

6. Based on the above pleadings, the learned Tribunal had framed the following issues for conducting trial:-

- i. *Whether the accident took place due to rash and negligent driving of TSRTC Bus Baring No.TS-18Z-0029 by its driver causing death of Tejawath Regya @ Reghunath?*
- ii. *Whether the petitioners are entitled for compensation? If so, to what extent and from whom?*
- iii. *To what relief?*

7. Before the Tribunal, on behalf of the petitioners, petitioner No.1 was examined as PW1, got examined PW2 and got marked Exs.A1 to A11 on their behalf. On behalf of respondents/RTC, RW1 was examined.

8. After considering the oral and documentary evidence available on record, the learned Tribunal has partly allowed the claim petition of the petitioners by awarding compensation of Rs.13,70,000/- along with interest @ 7.5% per annum from the date of petition till date of deposit/realization payable by Respondent Nos.1 & 2/RTC. Aggrieved by the same, the respondents in the said M.V.O.P.No.310 of 2018 filed M.A.C.M.A.No.527 of 2020 and the claim petitioners filed Cross Objections petition No.1 of 2021.

9. Heard arguments of Sri R.Anurag, learned Standing Counsel for Appellants-TSRTC as well as Sri Amrutha Sanjeeva, learned counsel for the Respondents/Cross-objectors.

10. The contentions of the learned counsel for appellants/TSRTC as stated in the grounds of Appeal are that the learned Tribunal erred in believing the evidence of PW2/eye witness; erred in not making the owner and insurer of the motorcycle as necessary parties to the claim petition; erred in taking the income of the deceased @ Rs.10,000/- per month in the absence of income proof; erred in awarding 25% towards future prospects; erred in awarding excess compensation under all heads and further contended that as per Exs.A1 & A2, the accident occurred only due to the

contributory negligence of the deceased. Hence, prayed to allow the Appeal by setting aside the order of the learned Tribunal.

11. Per contra, learned counsel for the respondents/cross-objectors contended that though the petitioners had established their case by cogent and convincing evidence and also by relying upon documents marked under Exs.A7 to A11, but the learned Tribunal, without considering the same, had taken meager amount towards income of the deceased and calculated compensation which is inadequate and hence prayed to allow the cross-objections petition by enhancing the compensation amount.

12. Now the points that emerge for consideration are,

(i) Whether the order passed by the learned Tribunal requires interference of this Court?

(i) Whether the cross-objectors are entitled for enhancement of compensation?

Points-

13. This Court has perused the entire evidence and documents filed by both sides. Petitioner No.1, wife of the deceased, was examined as PW1 and filed an affidavit in lieu of her chief-examination reiterating the contents made in the claim application and also deposed about the manner of accident, injuries sustained by her husband and death of the deceased. She also stated that

she incurred an amount of Rs.1,00,000/- towards transportation of dead body and funeral expenses. She further deposed that prior to accident, the deceased was aged 44 years, used to do Agriculture by raising paddy, maize and other commercial crops and was also having buffaloes and sold Milk of about 30 liters per day and used to earn Rs.40,000/- per month. As she is not an eye witness to the incident, she got examined PW2, who accompanied the deceased on the date of accident on Motorcycle bearing No.TS-16EP-5525. He deposed that on the date of accident, when himself and deceased were going on motorcycle bearing No.TS-16EP-5525 on NH44 and when reached Indalwai Village U turn, an RTC Bus came in a rash and negligent manner from backside and dashed the motorcycle of the deceased. As a result, himself and the deceased fell down and the deceased died on the way to Hospital.

14. During his cross-examination, he admitted that on the date of accident, the motorcycle was driven by the deceased and he also denied the suggestion that the accident took place due to the negligence of the deceased as he suddenly took 'U' turn without any indicator.

15. In support of oral evidence, the petitioners got marked Exs.A1 to A11 on their behalf. Ex.A1- FIR discloses that Police of Indalwai Police Station registered a case in Crime No.43 of 2018

under Sections 304-A and 337 IPC, conducted investigation and filed charge sheet under Ex.A2 against the driver of the TSRTC Bus bearing No.TS18Z0029. Ex.A3 is the inquest panchanama. Ex.A4 is the Post-mortem examination report wherein, the cause of death of the deceased is shown as "Head Injury with subdural Hemorrhage Brain." Ex.A5 is the Crime details form. Ex.A6 is the Motor Vehicle Inspector report which discloses that the occurrence of accident was not due to any mechanical defects in the vehicle. Ex.A7 is the Pattedar pass book of the deceased. Ex.A8 is the Form 1-B issued by Tahsildar of Mugpal Mandal, Nizamabad District showing that the deceased is the owner of the lands to an extent of Ac.0.2000 gts in Sy.No.73/vuP2, Ac.0.2000 gts in Sy.No.92/EP1 and Ac.1.0300 gts in Sy.No.94 . Ex.A9 are the cash receipts issued by Palde Narsaiah and Pasi Gangaiah & Company, Nizamabad. Ex.A10 is the letter issued by Gram Panchayat, Bhairapur, declaring that the deceased is having 7 Buffaloes.

16. On the other hand, the respondents/TSRTC got examined the driver of crime RTC Bus bearing No.TS-18Z-0029 as RW1. During his cross-examination, he deposed that he gave an application against the rider of motor bike stating that he took 'U' turn without any indication, but he did not file copy of the said application before the Court below.

17. Therefore, from the evidence of PW2, an eye witness to the incident, coupled with the documentary evidence under Ex.A2-charge sheet, it is made clear that the accident occurred due to the rash and negligent driving of the driver of RTC Bus bearing No.TS-18Z-0029 which resulted into the death of the deceased. Therefore, the contention of the learned Standing counsel for appellants that the accident occurred due to the rash and negligent driving of the rider of the motorcycle and the claim petition is liable to be dismissed on the ground of non-joinder of necessary parties to the petition, is unsustainable as there is no contributory negligence on part of the rider of the motorcycle in the alleged accident. Hence, this Court is not inclined to interfere with the finding arrived at by the learned Tribunal in this regard.

18. Coming to the quantum of compensation, it is the contention of the learned counsel for appellants/RTC that the learned Tribunal erred in taking the income of the deceased @ Rs.10,000/- per month in the absence of income proof.

19. On the other hand, learned counsel for the respondents/cross-objectors contended that though the claim petitioners had established their case by adducing necessary documentary evidence under Exs.A7 to A11, but the learned Tribunal, without considering the same, had taken meager amount

towards the income of the deceased. In this regard, it is pertinent to mention that the petitioners, being the legal heirs of the deceased, can cultivate the land even after the death of the deceased. Moreover, the petitioners have not filed any evidence showing the monthly income of the deceased @ Rs.40,000/-. Hence, the Tribunal, taking into consideration the agricultural land which is in the name of deceased and considering the fact that the deceased used to do Milk business with the 7 buffaloes which he had in possession of, fixed his monthly earnings @ Rs.10,000/- per month. This Court considers the same to be reasonable and is not inclined to interfere with the same.

20. A perusal of the impugned judgment shows that the learned Tribunal, considering the age of deceased as 46 years as per Exs.A3 & A4, awarded 25% towards future prospects as the deceased is self-employed, applied relevant multiplier and calculated loss of dependency which arrived at Rs.13,00,000/-. Apart from this, the learned Tribunal had awarded a sum of Rs.40,000/- towards consortium, Rs.15,000/- towards funeral expenses and Rs.15,000/- towards loss of estate, which this Court finds it reasonable and requires no interference. Hence, the petitioners were awarded with a total compensation of Rs.13,70,000/- along with interest @ 7.5% per annum payable by

both the respondents 1 & 2/TSRTC. This Court do not find any reason to interfere with the said finding of the learned Tribunal which is in proper perspective.

21. In the result, M.A.C.M.A.No.527 of 2020- filed by TSRTC, as well as X-Objections petition No.1 of 2021- filed by the claimants, shall accordingly stand dismissed. There shall be no order as to costs.

22. Miscellaneous petitions, if any, pending shall stand closed.

Sd/- P. CH. NAGABHUSHAMBA
ASSISTANT REGISTRAR

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SECTION OFFICER

To,

1. The Motor Accidents Claims Tribunal (Principal District Judge) at Nizamabad.
(with records, if any)
2. One CC to Sri R. Anurag (SC for TSRTC), [OPUC]
3. One CC to Sri Amrutha Sanjeeva, Advocate [OPUC]
4. Two CD Copies

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HIGH COURT

DATED: 24/12/2024



**COMMON JUDGMENT+DECREE
MACMA.No.527 of 2020
AND
CROSS-OBJ No. 1 OF 2021**

**DISMISSING BOTH MACMA
AND X-OBJECTIONS
WITHOUT COSTS**

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IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

TUESDAY, THE TWENTY FOURTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SMT JUSTICE M.G.PRIYADARSINI

MACMA NO: 527 OF 2020

AND

CROSS-OBJECTIONS No. 1 OF 2021

MACMA NO: 527 OF 2020

Between:

1. Director Telangana State Road Transport Corporation, Represented by its Managing, Musheerabad, Hyderabad.
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This appeal and Cross Objections coming on for hearing and upon perusing the grounds of appeal and Cross Objections the Judgment and Decree of the Lower Court and the material papers in the case and upon hearing the arguments of Sri K.Anurag, Advocate for the Appellants in MACMA and Respondents in Cross Objections and of Sri Amrutha Sanjeeva, Advocate for the Respondent in MACMA and Cross Objectors in Cross Objections

This Court doth Order and Decree as follows:

1. That the Motor Accident Civil Miscellaneous Appeal No. 527 of 2020 filed by the TSRTC be and hereby is dismissed;
2. That the Cross Objections filed by the Claimants be and hereby are dismissed; and
3. That there shall be no order as to costs in this appeal.

**Sd/- P. CH. NAGABHUSHAMBA
ASSISTANT REGISTRAR**

//TRUE COPY//


SECTION OFFICER

To,

1. The Motor Accidents Claims Tribunal (Principal District Judge) at Nizamabad.
2. Two CD Copies



HIGH COURT

DATED: 24/12/2024

COMMON DECREE
MACMA.No.527 of 2020
AND
CROSS-OBJ No. 1 OF 2021

DISMISSING BOTH MACMA
AND X-OBJECTIONS
WITHOUT COSTS

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12/12/25