IN THE HIGH COURT OF ANDHRA PRADESH : AMARAVATI

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M.A.C.M.A.No. 79/2024

Between:

1. B BALAPPA, S/O B.CHENGAIAH, HINDU, AGED ABOUT 39 YEARS, DEPENDENT, RESIDING AT D.NO.6-14-42, AMBEDKAR COLONY, TIRUPATI)

2. B.JYOTHI PRAKASH REDDY (MINOR), S/O B.BALAPPA, HINDU, AGED ABOUT 9 YEARS. STUDENT,RESIDING AT D.NO.6-14-42, AMBEDKAR COLONY, TIRUPATI) (THE MINOR PETITIONER IS REPRESENTED BY GUARDIAN AND NEXT FRIEND, FATHER, THE PETITIONER)

...APPELLANTS

AND

1. R RAJA, S/O.R.RAGHUPATHY, HINDU, AGED ABOUT NOT KNOWN TO PETITIONERS BUT MAJOR. OWNER OF CAR BEARING REGISTRATION NO.TN 06-J-9817, RESIDING AT PLOT NO. 192/2, RAGHAVAN STREET, AYYAVU COLONY, AMINJIKARAI, CHENNAI, TAMIL NADU

2. HDFC ERGO GENERAL INSURANCE COMPANY LIMITED, REPRESENTED BY ITS BRANCH MANAGER, U FLOOR, D.NO.10-14-575/2, PMR PLASA, VV MAHAL ROAD, TIRUPATI

3. B AJAY BABU, S/O BALAKRISHNAN RAMACHANDRAN, HINDU, AGED ABOUT 29 YEARS, RESIDING AT D.NO.L75, KONDANJERRY POST, TIRUVALLUR DISTRICT, TAMIL NADU.

...RESPONDENTS

DATE OF JUDGMENT PRONOUNCED: 25.11.2026

SUBMITTED FOR APPROVAL:

THE HONOURABLE SRI JUSTICE B KRISHNA MOHAN

AND

THE HONOURABLE SRI JUSTICE ALAPATI GIRIDHAR

1. Whether Reporters of Local Newspapers may be allowed to see the judgment? Yes / No

2. Whether the copies of judgment may be marked to Law Reporters / Journals? Yes / No

3. Whether His Lordship wish to see the fair copy of the Judgment? Yes / No

_____

JUSTICE B. KRISHNA MOHAN

_____

JUSTICE ALAPATI GIRIDHAR

*** THE HONOURABLE SRI JUSTICE B KRISHNA MOHAN**

AND

*** THE HONOURABLE SRI JUSTICE ALAPATI GIRIDHAR**

+ M.A.C.M.A.No. 79 of 2024

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...RESPONDENTS

! Counsel for Petitioner/s : Smt. S. Pranathi

^ Counsel for Respondent/s : Sri Gudi Srinivasu

< Gist:

> Head Note:

4. **? Cases referred:**
   i. (2009) 6 SCC 121
   ii. (2017) 16 SCC 680
   iii. 2024 INSC 584
   iv. (2020) SCC Online SC 410
   v. 2026 INSC 634
   vi. (2005) 6 SCC 344

Date reserved on : 25.08.2026
Date pronounced on : 25.11.2026
Date uploaded on : 25.11.2026

APHC010081862024

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3626]**
(Special Original Jurisdiction)

WEDNESDAY, THE 25TH DAY OF NOVEMBER, 2026

PRESENT

THE HONOURABLE SRI JUSTICE B KRISHNA MOHAN

AND

THE HONOURABLE SRI JUSTICE ALAPATI GIRIDHAR

M.A.C.M.A.No. 79/2024

Between:

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1. R RAJA, S/O.R.RAGHUPATHY, HINDU, AGED ABOUT NOT KNOWN TO PETITIONERS BUT MAJOR. OWNER OF CAR BEARING REGISTRATION NO.TN 06-J-9817, RESIDING AT PLOT NO. 192/2, RAGHAVAN STREET, AYYAVU COLONY, AMINJIKARAI, CHENNAI, TAMIL NADU
2. HDFC ERGO GENERAL INSURANCE COMPANY LIMITED, REPRESENTED BY ITS BRANCH MANAGER, U FLOOR, D.NO.10-

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...RESPONDENTS

Counsel for the Appellant(S):

1. S PRANATHI

Counsel for the Respondent(S):

1. GUDI SRINIVASU

THE HONOURABLE SRI JUSTICE B. KRISHNA MOHAN

AND

THE HONOURABLE SRI JUSTICE ALAPATI GIRIDHAR

M.A.C.M.A.No. 79 of 2024

The Court made the following Judgment:

(per Hon'ble Sri Justice Alapati Giridhar)

1. The Appeal is filed by the Claimants against the Award of the Motor Accidents Claims Tribunal-cum-III Additional District Judge, Tirupati, dated 20.12.2023 in M.V.O.P.No.93 of 2019, seeking enhancement of compensation.

I.CONTENTIONS:

2. The learned counsel for the Appellants submits that the Tribunal erred in taking the net salary of Rs.18,047/- but as per salary slip/Ex.A-9 her salary wasRs.42,657/-, after deducting professional tax of Rs.200/-, Rs.42,457/- is to be considered. The learned counsel placed reliance on the judgment of the Hon'ble Supreme of Court of India in *National Insurance Company Limited v. Pranay Sethi*, (2017) 16 SCC 680, and submits that the actual salary should be read as actual salary *less* tax. The Tribunal failed to appreciate the salary slips for the months of March and April, 2019, which show an increase in the income of the deceased at the time of her death, and sought to award just compensation in accordance with law and placed reliance on *Manasvi Jain Vs. Delhi Transport Corporation Limited and Others*

(2014) 13 SCC 22 and *Shyamwati Sharma and Others Vs. Karam Singh and Others* (2010) 12 SCC 378.

3. The learned counsel for the Insurance Company finally conceded that only professional tax has to be deducted. If the deceased falls within the income-tax slab, the applicable income tax has to be deducted.

II.BRIEF FACTS

4. The Claimants case is that the husband and son of Smt. B. Komala/deceased has filed the Claim Petition seeking compensation of Rs.87,00,000/-. That on 11.04.2019, Smt. B. Komala/deceased was proceeding on a two-wheeler/AP-03-CG-5828, driven by the husband/Claimant No.1 on the Tirupati -Tirumala Ghat Road, near the 8th KM stone, the 3rd Respondent, who was driving a Mahindra Rexton Car/TN-06-J-9817 8865, came from behind in a rash and negligent manner, lost control over the Car, dashed against the two-wheeler, both of them fell down and the left wheel of the Car ran over the body of Smt. B. Komala, causing severe multiple injuries. Both were shifted to Ashwini Hospital, Tirumala, for treatment. While undergoing treatment, Smt. B. Komala succumbed to the injuries on the same day. In this regard, Cr.No.37 of 2019 was registered against Respondent No.3 under Sections 304-A, 338 and 279 IPC, and charge-sheet was filed. The deceased was working as EEG Technician at SVIMS, Tirupati, drawing a monthly salary of Rs.43,082/-.

5. The 2nd Respondent/Insurance Company initially pleaded that the accident occurred due to rash and negligent driving of the 1st Claimant and not by the 3rd Respondent, and that the Owner and Insurer of the motor cycle driven by 1st Claimant are not made necessary parties, disputed the relationship of the Claimants with deceased and quantum of salary of deceased, 3rd Respondent was not having valid driving licence on the date of the accident and Police failed to comply Sec.158(6) MV Act in forwarding FIR and other documents, disputed the quantum of compensation under different heads as excessive, exorbitant and imaginary along with rate of interest, and insisted for PAN card details of Claimants for TDS deduction of interest as per Income Tax Act and prays to dismiss the Claim Petition.

6. The 1st and 3rd Respondents remained ex parte.

7. As the case is not settled, the Tribunal framed the following issues :

i) Whether the deceased Komala died due to rash and negligent driving of the driver of the crime vehicle Car Mahindra Rexton RX bearing Regn.No.TN-06-J-9817?

ii) Whether the Petition is bad for non-joinder of proper and necessary parties ?

iii) Whether the Respondent No.1 violated terms and conditions of Insurance Policy ?

iv) Whether the petitioners are entitled to claim compensation from the Respondents as claimed in the petition?

v) To what relief?

III. EVIDENCE OF PARTIES:

8. The Tribunal recorded the evidence of PW.1/B. Balappa and PW.2/M. Venkataramana Reddy and exhibited A.1/Certified copy of FIR in Cr.No.37/2019 of Traffic PS, Tirumala, A.2/Certified copy of charge sheet, A.3/Certified copy of inquest report, A.4/Certified copy of postmortem certificate, A.5/Certified copy of MVI report, A.6/Bachelor of Science Degree certificate of deceased issued by SV University, Tirupati, A.7/Faculty of medicine of two years PG Diploma, A.8/Appointment proceedings issued to the deceased by SVIMS, Tirupati dated 13.01.2014, A.9/Pay slip of deceased for March, 2019 issued by Superintendent, SVIMS, Tirupati, A.10/Pay slip of deceased 10 days in April, 2019 issued by Superintendent, SVIMS, TTD, Tirupati, A.11/Bill for Rs.23,598/- relating to motor cycle of Petitioner, AP.03.CG.5828 issued by Suzuki Motors, Tirupati towards repair charges on behalf of the Claimants and also recorded the evidence of RW.1/Yella Someswara Babu and exhibited B.1/Copy of private car package policy and B.2/Attested copy of claim form on behalf of the Respondents.

9. The Tribunal answered Issue Nos.1 & 2 in favour of the Claimants, holding that the deceased Smt. B. Komala died in the accident due to rash and negligent driving by the Driver of the offending Car, that the petition is not bad for non-joinder of necessary parties. The Tribunal recorded that the 2nd Respondent failed to prove that the 1st Respondent violated the terms and conditions of Ex.B.1/Insurance Policy, accordingly, Issue No.3 and Issue Nos.4 & 5 are answered in favour of the Claimants by allowing the Claim

Petition partly for compensation of Rs.36,23,622/- with interest at 9% p.a and costs, payable by the Respondent Nos.1 to 3 against the claim of Rs.87,00,000/-.

IV.ANALYSIS:

10. There is no dispute with regard to the accident, negligent driving of the driver, death of Smt. B. Komala, her job and salary and the Insurance Policy was in force. The point for consideration is what amounts are deductible for the purpose of computing compensation for loss of earnings, which is also finally conceded by the learned Counsel for the Insurance Company that actual salary excluding professional and income tax as stated supra.

11. The Tribunal recorded a finding that the Driver/Respondent No.3 was negligent and responsible for the accident and for the death of Smt. B. Komala. The Tribunal also recorded the existence of the Insurance Policy in respect of the offending Car, which are not in dispute in this Appeal, allowed the claim by awarding compensation of Rs.36,23,622/- as stated supra.

12. The evidence on record reveals that PW.1 is the husband of the deceased and he deposed on the accident and negligence of the driver of the Car and PW.2 on the employment and income of the deceased. The evidence of RW.1, Officer of the Insurance Company and Ex.B2, claim form of the offending Car, does not help the case of the Respondents.

13. The learned Counsel for the Claimants/Appellants submits that the salary of Rs.42,457/- after deducting professional tax of Rs.200/-, is to be considered for computation of compensation. The learned Counsel for the Insurance Company also finally conceded this settled legal position. Thus, this limited point to be arrived on the just compensation.

14. The Tribunal relied on the salary slips/Exs.A9& A10, and took the net salary of the deceased at Rs.18,047/-, after excluding LIC premium of Rs.1,940/-, professional tax Rs.200/-, festival advance of Rs.300, EWF of Rs.30, SBI of Rs.18,700/- and CPS of Rs.3,439/-. The salary slips for the months of March, 2019 have to be taken as the April, 2019 is for 10 days i.e till her death.

15. The Tribunal grossly erred in deducting Rs.30/- of EWF, Rs.1,940/- of LIC premium, Rs.300/- of festival advance, Rs.3,439/- of CPS and Rs.18,700/- of SBI. These deductions come under the purview of contributions, savings and discharge of loans. But the record shows that the Tribunal did not assign any reasons for deducting the amounts under these three heads from the salary. These deductions cannot be construed like tax component, which shall be paid by the Employee. Therefore, these deductions cannot be treated as deductible amounts for determining the actual income of the deceased, except professional tax of Rs.200/-, no other amount is liable to be deducted as rightly contended by the learned Counsel for the Claimants and conceded by the learned Counsel for the Insurance Company as stated supra. The law is settled in this regard. The **Hon'ble Supreme Court of India**

in **Sarala Verma & Others Vs. Delhi Corporation & Another**[1] held that '*Generally the actual income of the deceased less income tax should be the starting point for calculating the compensation*.' And also the **Hon'ble Constitutional Bench of the Supreme Court of India** in **National Insurance Company Vs. Pranay Sethi**[2], held that 'Actual salary should be read as actual salary *less* tax'. But the Tribunal referred to **Pranay Sethi** case and misinterpreted it and held that the gross cannot be taken and actual pay of Rs.18,047/- to be taken, observing deductions under LIC Premium, professional tax, festival advance, CPs and SBI. The Tribunal grossly erred in not considering LIC Premium, festival advance, CPS and SBI for the purpose of computation of the salary. As observed by the Tribunal, professional tax was to be deducted from the salary. The learned Counsel for the Claimants also rightly relied on **Manasvi Jain case** supra**,** wherein the **Hon'ble Supreme Court of India** held that GPF, House Rent and GIS are contributions for welfare and cannot be deducted from salary. And rightly relied on **Shyamwati Sharma case** supra, wherein the **Hon'ble Supreme Court of India** held that GPF, Life Insurance Premium, Repayment of loans etc., should not be excluded from deceased's income.

16. Thus, the learned counsel for the Claimants rightly contended that the monthly salary of the deceased has to be taken at Rs.42,457/- after deducting professional tax of Rs.200/-, which is not in dispute. Thus, the actual salary *less* professional tax was Rs.5,09,484/- p.a (Rs.42,457/- x 12).In

[1](2009) 6 SCC 121
2(2017) 16 SCC 680

the relevant Financial Year 2019, for individuals, no Income Tax upto Rs.2,50,000/-, 5% rate for 2,50,000/- to Rs.3,00,000/- range, 10% rate for Rs.3,00,000/- to Rs.5,00,000/- range and 20% rate for Rs.5,00,000/- to Rs.10,00,000/- range. As the income was arrived at Rs.5,09,484/- p.a, Rs.24,397/- was to be deducted towards income tax, and the annual income was Rs.4,85,087/- (Rs.5,09,484/- (-) Rs.24,397/-). As the Claimants were two in number, 1/3rd was to be deducted towards personal and living expenses, which was also applied by the Tribunal, total should be Rs.3,23,391/- (Rs.4,85,087/- (-) Rs.1,61,696/-). As the deceased was with a permanent job and aged 33 years, future prospects of 50% was to be added, which was also applied by the Tribunal, total should be Rs.4,85,086/- (Rs.3,23,391/- + Rs.1,61,695/-), for the age of 33 year, the applicable multiplier is 16, which was also applied by the Tribunal, thus the total loss of dependency shall beRs.77,61,376/- (Rs.4,85,086/- x 16).

17. But the Tribunal erred in awarding Rs.40,000/- towards love and affection and Rs.80,000/- towards consortium.

18. In **Pranay Sethi** supra, the compensation under the conventional heads, namely, loss of estate, loss of consortium and funeral expenses, is fixed at Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively. Also held that the aforesaid conventional heads should be enhanced at the rate of 10% for every three years. Thus, the Claimants are entitled to enhanced amounts of Rs.19,500/-, Rs.52,000/- and Rs.19,500/- respectively. Accordingly, the Award is modified.

19. The law in **Pranay Sethi** supra, including on Future Prospects, deduction for personal and living expenses, multiplier, Loss of Consortium, Loss of Estate and Funeral Expenses etc., has been applied retrospectively (see ***Rojalini Nayak& Others Vs Ajit Sahoo & Others***[3]).

20. The **Hon'ble Supreme Court of India** in **United India Insurance Company Limited Vs. Satinder Kaur and others*4***, held that the parents and children are also entitled to Consortium.

Sl.No.	Head of the Claim	Compensation awarded by the Tribunal (Rs.)	Compensation modified/enhanced by this Court (Rs.)	Remarks
1.	Loss of future earning capacity and prospectus	34,65,024/-	77,61,376/-	Deducted PT of Rs.200/- from actual salary of Rs.42,657/-, deducted IT, deducted 1/3rd towards personal and living expenses, added FP 50%and applied multiplier '16' as per ***Pranay Sethi***.
2.	Damage to motor cycle	23,598/-	23,598/-	Maintained as per the Tribunal.
3.	Funeral Expenses	15,000/-	19,500/-	As per ***Pranay Sethi case*** with 10% hike

[3] 2024 INSC 584
4(2020) SCC Online SC 410

4.	Loss of Consortium	80,000/-	1,04,000/-	Claimants No.1 and 2 as per ***Pranay Sethi case*** and ***Satinder kaur***. Rs.52,000/- x 2 = Rs.1,04,000/-
5.	Loss of Estate	Not awarded	19,500/-	As per ***Pranay Sethi case*** with 10% hike
6.	Loss towards love and affection	40,000/-	-	Included in Consortium.
	Total	Rs.36,23,622/-	Rs.79,27,974/-	

21. Thus, the Claimants are entitled to Rs.79,27,974/- for the claim of Rs.87,00,000/-. The compensation amount shall be apportioned among the Claimants in the same manner and ratio as ordered by the Tribunal. The interest of 7.5% pa ordered by the Tribunal shall be maintained under the circumstances of the case.

22. Thus, the Award of the Tribunal is modified on quantum of compensation to the extent as indicated above.

23. The parties through their counsels, shall file the claim petitions in accordance with law, setting out the compensation claimed under each head with detailed computations and supporting documents, such particulars shall form the basis for the Insurer and the Insured to examine the claims and file their respective counters, admitting the claim either partly or wholly, wherever there are no violations of the terms and conditions of the Insurance Policy and there is no dispute regarding the occurrence of the accident and negligence, depending on the facts of the case. Even where the Insurer seriously disputes

its liability, it shall nevertheless furnish the computations under the relevant heads in accordance with law so as to assist the Tribunal to examine and award just compensation against the Insured. In other words, in every motor accident claim, whether the Insurer is wholly liable, partly liable or not liable at all, the Insurer shall set out its specific defence, together with the relevant computations, to enable the Tribunal to determine whether the award is to be passed wholly against the Insurer, partly against the Insurer and partly against the Insured, or wholly against the Insured, as the case may be, depending upon the facts and circumstances of the case. Failure to furnish such particulars and computations, it may be construed that the parties and the counsels did not file the claim petitions and counters complying with the law (see **Shishupal @ Shishram and Others v. Surjit and Others[5], also Order VIII and Order XII Rule 6 of CPC**). The Chairmen of the Tribunals shall ensure filing of the claims and counters in the manner as indicated supra. In the pending claims, either seeking reference to Lok Adalat or being taken up for arguments, the Counsels shall file the brief synopsis setting out the relevant computations as stated supra to assist the Tribunal to examine the case to award just compensation. Similarly, the Appeals shall also be filed with the relevant computations in support of their case, either seeking enhancement or reduction of the compensation on grounds such as applicability of multiplier, deduction towards for living and personal expenses, Income Tax, future prospects or contributory negligence etc. In the pending Appeals also, the Counsels shall also file the brief synopsis with such

[5] 2026 INSC 634

computations as indicated supra to assist the Court in effectively and expeditiously adjudicating the matters. The Public Sector Insurance Companies shall ensure compliance with the law, any failure to comply with the same may render the concerned violators liable for legal consequences depending on the facts of the case.

24. In this case, the Insurance Company should have assisted the Tribunal on actual salary less professional and income tax as per the law as stated supra, but the Insurance Company did not assist the Tribunal in this settled manner, even in the absence of assistance, the Tribunal has a duty to compute the salary as per the law as stated supra. Generally, such conduct of the Insurance Company significantly contributes to avoidable delays in the disposal of cases, which requires introspection and effective measures, as indicated supra, on their part to contribute to the effective and expeditious disposal of the claims in the interest of justice. Their inaction led the Claimants to approach this Court by way of this appeal. Thus, the concerned Officer is liable to pay costs to the claimants (see **Salem Advocate Bar Association, Tamilnadu Vs. Union of India**[6]).

25. Thus, the Court, considering the submissions and material on record, inclined to hold that the Appellants could demonstrate the grounds as stated supra to warrant interference in the Award of the Tribunal.

[6] (2005) 6 SCC 344

V. RESULT

26. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed with costs, while enhancing the compensation from Rs.36,23,622/- to Rs.79,27,974/- as stated in the Table with interest at 7.5% p.a. from the date of filing of the Claim Petition till the date of realization, jointly and severally by the Respondent Nos.1 to 3 in the circumstances of the case. The Advocate Fee is fixed at Rs.25,000/- payable to the Claimants. The costs shall be recovered from the concerned Officer by the Insurance Company. The compensation amount shall be apportioned among the Claimants in the same manner and ratio as ordered by the Tribunal.

As a sequel, the pending Miscellaneous Petitions, if any, shall stand closed.

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JUSTICEB. KRISHNA MOHAN

_____

JUSTICE ALAPATI GIRIDHAR

Dt: 25.11.2026
JKS
Note:
L.R copy to be marked
B/O : JKS

Whether the Order is:

Speaking		Reasoned	☑
Reportable	☑	Non-reportable	

THE HONOURABLE SRI JUSTICE B KRISHNA MOHAN

AND

THE HONOURABLE SRI JUSTICE ALAPATI GIRIDHAR

M.A.C.M.A.No.79 of 2024

25.11.2026

JKS