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APHC010308072017

**IN THE HIGH COURT OF ANDHRA PRADESH**
**AT AMARAVATI [3604]**
**(Special Original Jurisdiction)**

WEDNESDAY, THE 25th DAY OF NOVEMBER 2026

**PRESENT**

**THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM**

**MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 2049/2017**

**Between:**

1. NEW INDIA ASSURANCE CO. LTD.,, REPRESENTED BY ITS DIVISIONAL MANAGER, OFFICE AT 2/789, 1S` FLOOR, SHRIRAM TOWERS, NAGARAJUPETA, KADAPA CITY AND DISTRICT.

**...APPELLANT**

**AND**

1. CHINMANI OBULAMMA AND 3 OTHERS, W/O NARASIMHULU. ALL RE HINDUS, RESIDENTS OF KOTHAPETA VILLAGE, PRODDATUR MANDAL, KADAPA DISTRICT.
2. CHINMANI NAGALAKSHMI, W/O BANDARU VENKATESWARLU ALL RE HINDUS, RESIDENTS OF KOTHAPETA VILLAGE, PRODDATUR MANDAL, KADAPA DISTRICT.
3. CHINMANI NAGAMANI, W/O GANJIKUNTA ANJANEYULU. ALL RE HINDUS, RESIDENTS OF KOTHAPETA VILLAGE, PRODDATUR MANDAL, KADAPA DISTRICT.
4. K GANGI REDDY, S/O K.C. GANGI REDDY, HINDU, OWNER OF SCORPIO BEARING NO. AP 04 N 6939, CHINNADASARIPALLE VILLAGE, PULIVENDULA MANDAL, KADAPA DISTRICT.

**...RESPONDENT(S):**

Appeal filed under Section 173 of MV Act before the High Court to allow the appeal by setting aside the order and decree dt. 29/11/2016 made in

MVOP.No. 224 of 2011 on the file of the court of the MACT-cum-II Addl. Dist. Judge KAdapa Proddatur

**IA NO: 1 OF 2017(MACMAMP 3687 OF 2017**

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 dispense with the filing of Original Statutory Deposit Receipt

**IA NO: 2 OF 2017(MACMAMP 3688 OF 2017**

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 operation of the Judgment and decree dated 29-1 made in 0.P.No.224 OF 2011 on the file of the Motor Vehicle Accidents Tribunal-Cum-II Additional District Judge,Kadapa District at Proddutur and 1 such other order or orders as this Hon'ble Court may deem fit and proper

**IA NO: 3 OF 2017(MACMAMP 5228 OF 2017**

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 vacate the interim orders granted on 21.08.2017 passed in MACMAMP No.3688/2017 in MACMA No.2049/2017

**IA NO: 5 OF 2017(MACMAMP 27967 OF 2017**

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

**Counsel for the Appellant:**

1. AMANCHARLA SATISH BABU

**Counsel for the Respondent(S):**

1. V NITESH

**The Court made the following:**

**THE HON'BLE SMT. JUSTICE SUNITHA GANDHAM**

**MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 2049 OF 2017**

**JUDGMENT:**

Assailing the Order and decree dated 29.11.2016 in M.V.O.P.No.224 of 2011 passed by the Chairman, Motor Accident Claims Tribunal-cum-II Additional District Judge, Kadapa at Proddatur, respondent No.2/Insurance company filed the instant appeal for awarding compensation at Rs.13,42,000/- for the untimely death of Chimmani Anjaneyulu.

2. The parties are being referred to as 'petitioners' and 'respondents' as arrayed in the petition before the Tribunal, for the sake of convenience and clarity.

3. **The case of the petitioners is thus**:

On 04.06.2011 at about 01.10 A.M, while the Chimmani Anjaneyulu/ deceased along with his friend namely T. Bhaskar proceeding to Mahanandi so as to attend the marriage in Scorpio bearing No.AP 04 N 6939 and when they reached near Jalasadari village, the driver of the said car drove the same in a rash and negligent manner and as a result, the car turned turtle, Chimmani Anjaneyulu sustained severe head injuries. Immediately after the accident, he was shifted to the Government Hospital, Kurnool and while undergoing treatment, he died on the same day. As on the date of the accident, deceased hale and healthy, was aged about 20 years, working as weaver and was earning Rs.8,000/- per month and contributing the same for maintenance of his family. Due to his sudden demise, the petitioners, who are dependants of the deceased lost their financial support as well as love and affection. Since the accident occurred due to the rash and negligent driving of the driver of the scorpio bearing No.AP 04 N 6939, a case in Crime No.67 of 2011 is registered of the offence under Section 304-A of the Indian Penal

Code (hereinafter referred to as 'the Code') against the driver of the offending vehicle. Respondent No.1 is owner and respondent No.2 is insurer of the scorpio bearing No.AP 04 N 6939 and as such, both the respondents are jointly and severally liable to pay the compensation.

4. Having received notice, respondent No.1 remained *ex parte.* Respondent No.2 filed written statement refuting the averments made in the petition, wherein, *inter alia* contending that there is no negligence on the part of the driver of the car, petitioners claimed excessive compensation, denied involvement of the said car, age, income and dependency of the deceased, and with other formal denials, prayed to dismiss the petition.

5. Taking into consideration of the aforementioned pleadings, the learned Tribunal settled the following issues:

> 1) Whether the accident occurred due to rash and negligent driving of the driver of the scorpio bearing No.AP 04 N 6939 causing the death of C. Anjaneyulu?
>
> 2) If so, whether the petitioners are entitled for compensation against whom and to what extent?
>
> 3) To what relief?

6. During trial, petitioner No.1 examined herself as PW.1 and the petitioners have got examined independent witness as P.W.2, and filed Exs.A1 to A5 documents. As against the said evidence, respondent No.2 has not adduced either oral or documentary evidence. At the culmination of trial, learned Tribunal awarded compensation of Rs.13,42,000/- for the untimely death of Chimmani Anjaneyulu.

7. Being aggrieved by the said Order and decree, the respondent No.2/appellant preferred the instant appeal, urging the principal grounds that:

(i) The Order and decree of the learned Tribunal is contrary to law, weight of evidence and probabilities of the case.

(ii) The learned Tribunal erred in awarding compensation of Rs.13,42,000/- along with interest @ 7.5% p.a.

(iii) The learned Tribunal erred in deducting 1/4$^{th}$ towards personal expenditure since the deceased is bachelor and erroneously awarded an amount of Rs.12,15,000/- under the head of dependency.

(iv) The learned Tribunal ought to have seen that the petitioner Nos.2 and 3 are major and married sisters of the deceased and except a mere pleading that they are neglected by their husband, nothing is placed on record.

(v) The learned Tribunal erred in granting an amount of Rs.1,00,000/- towards consortium since deceased was a bachelor and granting amount under the head of consortium does not arise.

(vi) The learned Tribunal erred in taking the notional income of the deceased at Rs.5,000/- per month and adding 50% towards future prospects.

(vii) The learned Tribunal ought to have taken the parent's age instead of age of the deceased while calculating the compensation.

*(viii)* The learned Tribunal ought to have seen that the deceased was not a permanent employee, as on the date of the accident and ought not to have added 50% of income towards future prospects which is contrary to the Judgment of the Hon'ble Apex Court in ***Sarla Varma & Others v. Delhi Transport Corporation and others***[1].

(ix) The learned Tribunal awarded excessive compensation under various heads, and with other formal grounds, prayed to allow the appeal.

8. Heard both sides.

9. Perused petition and other material available on record including the impugned order dated 29.11.2016.

[1] (2009) 6 SCC 121

10. On hearing both sides and upon perusing the material placed on record, the points that would arise for consideration are as follows:

(1) Whether Chimmani Anjaneyulu died in the accident dated 04.06.2011 occurred due to the rash and negligent driving of the driver of the scorpio bearing No.AP 04 N 6939?

(2) Whether the petitioners are entitled for compensation? If so, to what amount?

(3) Whether the Order and decree dated 29.11.2016 passed in M.V.O.P.No.224 of 2011 by the Chairman, Motor Accident Claims Tribunal-cum-II Additional District Judge, Kadapa at Proddatur are sustainable in facts and law?

(4) To what relief?

11. Admittedly, petitioners have not filed any appeal or cross objection challenging the findings of the learned Tribunal, however, being the first appellate court and final fact finding court, this court has to re-examine and re-appreciate the entire oral as well as documentary evidence on record.

12. **Point No.1:**

(a) Now, it is necessary to analyze the evidence on record to answer the points. As seen from the record, during trial, petitioner No.1 filed examination-in-chief in lieu of chief examination by reiterating the averments mentioned in the petition. In order to prove the manner and method of accident, petitioners relied upon the evidence of PW.1 coupled with Exs.A1 to A5 documents. P.W.1 testified that on 04.06.2011 at about 01.10 A.M, while the deceased along with his friend namely T. Bhaskar proceeding to Mahanandi so as to attend the marriage in Scorpio bearing No.AP 04 N 6939 and when they reached near Jalasadari village, respondent No.3, being the driver of the said car drove the same in a rash and negligent manner and as a result, the said car turned turtle, deceased sustained severe head injuries and immediately

after the accident, he was shifted to the Government Hospital, Kurnool and while undergoing treatment, her son died on the same day and nothing useful material is elicited in the cross examination of PW.1.

(b) Further, a case in crime No.67 of 2011 under Section 304-A of the Code is registered *vide* EX.A1/First information report against the driver of the scorpio and after completion of investigation, police laid EX.A5/Charge sheet alleging that the accident occurred due to the rash and negligent driving of driver of the scorpio. No rebuttal evidence is adduced by the respondents. Having filed written statement, respondent No.2 has not examined the driver of the scorpio who is the best person to speak about the accident and his non-examination is fatal to the case of respondents. As seen from EX.A4/Motor Vehicle Inspector Report, the accident not occurred due to any mechanical defect. So, the evidence of P.W.1 coupled with EXs.A1, A4 and A5 clinchingly proves that the accident occurred due to the rash and negligent driving of driver of the scorpio. It is evident from EX.A3/Postmortem report that the deceased succumbed to the injuries sustained in the accident. Hence, this point is answered holding that the accident occurred only due to the rash and negligent driving of driver of the scorpio bearing No.AP 04 M 6939, deceased sustained injuries in the said accident and succumbed to the said injuries.

13. **Point No.2:**

(a) As per the version of petitioners, petitioner No.1 is mother, petitioner Nos.2 and 3 are married sisters of the deceased, the deceased hale and healthy, was aged about 20 years, unmarried, working as weaver and was earning Rs.8,000/- per month, as on the date of the accident and due to his sudden demise, they lost their financial support as well as love and affection. As seen from EX.A2/Inquest report and EX.A3/Post-mortem report, age of the deceased is mentioned as 20 years. There is no contra evidence to that effect. So, it can safely be concluded that the age of the deceased was 20 years as on the date of accident and the relevant multiplier is ‘18’. The petitioners who

are none other than the dependants and legal representatives of the deceased are entitled for compensation.

(b) So far as earnings of the deceased is concerned, petitioners have not filed any document to show actual income of the deceased and relied upon the evidence of P.W.2 and he testified that he is master weaver and he used to entrust work to the deceased, and the deceased used to weave 18 sarees and earn Rs.12,000/- per month. In the given facts and circumstances and on a reasonable hypothesis, monthly income of the deceased have to be considered at Rs.8,000/-.

(c) Learned counsel for the respondent No.2 argued that petitioner Nos.2 and 3 are married sisters of the deceased and as such, they are not entitled for compensation. In this regard, it is to be mentioned that in ***Manjuri Bera Vs. Oriental Insurance Company Limited***[2], Hon'ble Apex Court held at para No.14 as follows:

> "14..... In paragraph 16 of the said decision, while adverting to the provisions of Section 140 of the Act, the Court observed that even if there is no loss of dependency, the claimant, if he was a legal representative, major sonwill be entitled to compensation. In the concurring judgment of Justice S.H. Kapadia, as His Lordship then was, it is observed that there is distinction between "right to apply for compensation" and "entitlement to compensation". The compensation constitutes part of the estate of the deceased. As a result, the legal representative of the deceased would inherit the estate. Indeed, in that case, the Court was dealing with the case of a married daughter of the deceased and the efficacy of Section 140 of the Act. Nevertheless, the principle underlying the exposition in this decision would clearly come to the aid of the respondent Nos. 1 and 2 (claimants) even though they are major sons of the deceased and also earning."

(d) Further, in ***National Insurance Company Limited Vs. Birender and others***[3], it is held that legal representatives of the deceased have a right to apply for compensation, and in ***Bajaj Allianz General Insurance Co., Limited and another Vs. Bipasa Roy and others***[4] ***and Balvinder Singh Vs.***

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[2] 2007 ACJ 1279 (SC)
[3] AIR 2020 SC 434
[4] 2022 ACJ 1406

***Vijaya Kumar and others***[5]***,*** it was held that major/married daughters and sons are entitled for compensation.

(e) As per the aforementioned propositions, married/major sons/daughters who are also earning and not fully dependents on the deceased, would be still covered by the expression "legal representative" of the deceased and entitled for compensation. So, the petitioner Nos.2 and 3, being legal representatives of the deceased are entitled for compensation.

(f) The petitioners have not filed any appeal seeking enhancement of compensation, however, learned counsel for the petitioners would argue that though they have not filed any appeal or cross objections seeking enhancement of compensation, just and fair compensation may be awarded. Learned counsel for the respondents argued that the accident occurred in the year 2011 and as such, the present principles of law shall not be applied to the facts of the case at hand. It is settled principle of law that the petitioners are entitled for just and fair compensation and further, in exercise of the appellate powers under Order 41 Rule 33, this court can enhance the amount of compensation even in the absence of appeal or cross objections. In this regard, it is to be noted that in ***Sharanamma & Others v. Divisional Controller, North-East Karnataka Road Transport Corporation***[6]***,*** Hon'ble Apex Court held thus:

> "10. When an appeal is filed under Section 173 of the Motor Vehicles Act, 1988, before the High Court, the normal rules which apply to appeals before the High Court, are applicable to such an appeal also. Even otherwise, it is well settled position of law that when an appeal is provided for, the whole case is open before the appellate court and by necessary implication, it can exercise all powers incidental thereto in order to exercise that power effectively. A bare reading of Section 173 of the Act also reflects that there is no curtailment or

[5] 2022 ACJ 1140
[6] 2013 (11) SCC 517

limitations on the powers of the appellate court to consider the entire case on facts and law".

(g) Further, in ***National Insurance Company Limited rep. By its Branch Manager v. Susheelamma and Others*** [7] , having considered the aforementioned principle, Division Bench of this Court has held that to the appeal under Section 173 of the M.V. Act to the High Court, in the absence of a different procedure having been provided, either under the M.V. Act or the A.P.M.V. Rules, 1989, and the applicability of Order 41 C.P.C also not having been excluded, the normal rules which apply to appeals before the High Court, are applicable and further held that for doing justice and to award just compensation, the provisions of Order 41 Rule 33 are to be invoked.

(h) And, in ***Surekha v. Santhosh***[8], having agreed with the stand of the claimants that just compensation amount ought to be awarded, High Court of Judicature at Bombay declined to grant enhancement merely on the ground that the claimants failed to file cross appeal and in such circumstances, Hon'ble Apex Court held that it is well settled that in the matter of insurance claim compensation in reference to the motor accident, the court should not take hyper technical approach and ensure that just compensation is awarded to the affected person or the claimants. So, in the absence of any appeal or cross objections in respect of quantum of compensation, this Court is under obligation to award just and fair compensation.

(i) By applying the principles in ***Sarala Varma and Others Vs. Delhi Transport Corporation and another*** [9] and ***National Insurance Company Ltd Vs. Pranay Sethi and others*** [10] and ***Magma General Insurance***

[7] 2023 SCC Online AP 1725
[8] (2021) 16 SCC 467
[9] (2009) 6 SCC 121
[10] (2017) 16 SCC 680

***Company Limited v. Nanu Ram alias Chuhru Ram and others***[11], this court has assessed the compensation as follows:

| Sl. No. | Heads | | Calculation |
|---|---|---|---|
| 1. | Annual Income (Rs.8000 X 12) | Rs. | 96,000.00 |
| 2. | Deduction towards personal expenses (96,000x1/2) | Rs. | 48,000.00 |
| 3. | Total income (96,000-48000) | Rs. | 48,000.00 |
| 4. | Future prospects (40% of 48000) | Rs. | 19,200.00 |
| 5. | Total loss of dependency (48,000+19,200) = 67,200x18 | Rs. | 12,09,600.00 |
| 6. | Loss of consortium (52,000x3) (spousal+parental) | Rs. | 1,56,000.00 |
| 7. | Funeral expenses | Rs. | 19,500.00 |
| 8. | Loss of estate | Rs. | 19,500.00 |
| | **TOTAL** | Rs. | **14,04,600.00** |

(j) In the given facts and circumstances of the case, petitioners are entitled for **Rs.14,04,600/- (Rupees Fourteen Lakhs Four Thousand Six Hundred Only)** and in this courts well considered view, the compensation awarded is just, adequate and reasonable, as the deceased left his dependents.

(k) So far as the liability of the respondents is concerned, it is to be noted that a finding is already recorded in issue No.1, holding that driver of the scorpio bearing No.AP 04 M 6939 was solely responsible for the accident. So, respondent No.1 is vicariously liable for the acts committed by his driver. It is not in dispute that policy of the offending vehicle was in force as on the date of accident and as such, respondent No.2 is liable to indemnify the

[11] (2018) 18 SCC 130

liability of respondent No.1/owner. Hence, this issue is answered holding that the respondent Nos.1 and 2 are jointly and severally liable to pay compensation.

**14. Point No.3:**

Upon reappraisal of the evidence on record, and for the foregoing reasons, this court came to conclusion that the learned Tribunal erred in assessing the quantum of compensation, deducting 1/4$^{th}$ towards personal expenses and as such, the same is liable to be modified. Hence, this point is answered accordingly.

**15. Point No.4:**

(i) **In the result**, and in view of the findings in point Nos.1 to 3, this Motor Accident Civil Miscellaneous Appeal is dismissed, while modifying the order of the learned Tribunal by enhancing the compensation **from Rs.13,42,000/- (Rupees Thirteen Lakhs Forty Two Thousand Only) to Rs.14,04,600/- (Rupees Fourteen Lakhs Four Thousand Six Hundred Only)** together with interest at the same rate as awarded by the Tribunal, from the date of the claim petition till the date of realization, subject to payment of additional court fee on **Rs.62,600/- (Rupees Sixty Two Thousand Six Hundred Only)** by the petitioners before the Registry within thirty (30) days from today.

(ii) Out of the said compensation amount, **Rs.12,04,600/- (Rupees Twelve Lakhs Four Thousand Six Hundred Only)** is awarded to the petitioner No.1, **Rs.1,00,000/- (Rupees One Lakh Only) each** is awarded to the petitioner Nos.2 and 3. Apportionment is ordered accordingly

(iii) Time for deposit, as aforesaid, with interest, excluding the amount, if any, already deposited, is one (1) month from the date of receipt of a copy of this judgment.

(iv) On such deposit, petitioner Nos.1 to 3 are permitted to withdraw the compensation as awarded supra along with accrued interest thereon, excluding the amount, already paid.

(v) There shall be no order as to costs.

As a sequel thereto, pending miscellaneous petitions, if any, shall stand closed.

**SUNITHA GANDHAM, J**

Dt:25.11.2026
Vns