APHC010481642011

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3396]**
(Special Original Jurisdiction)

WEDNESDAY, THE 18th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE DR. JUSTICE VENKATA JYOTHIRMAI PRATAPA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL No: 211/2011

Between:

1. VINDUPALLI CHENNAMMA, W/O.LATE KONDAIAH, HOUSEWIFE, R/O. HARIJANAWADA, ATMAKUR, SPSR NELLORE DISTRICT
2. VINDUPALLI RAVI KUMAR,, S/O. KONDAIAH, R/O. HARIJANAWADA, ATMAKUR, SPSR NELLORE DISTRICT
3. VINDUPALLI RAMESH,, S/O. KONDAIAH, R/O. HARIJANAWADA, ATMAKUR, SPSR NELLORE DISTRICT

...APPELLANT(S)

AND

1. SK.MHABOOB JOHNY, S/O. RAHAMTHULLA SAHEB, LORRY OWNER, R/O. 7/399 GOPURAM STREET, RANGANAYAKULAPETA, NELLORE.
2. NATIONAL INSURANCE COMPANY LTD, REP. BY ITS MANAGER, GANDHI NAGAR NELLORE, SPSR NELLORE DISTRICT.

...RESPONDENT(S):

Counsel for the Appellant(S):

1. G.VENKATESWARLU

Counsel for the Respondent(S):

1. V. NARAYANA REDDY
2. P RAMANJANEYULU

The Court made the following:

JUDGMENT:

1. This appeal has been preferred under Section 173 of the Motor Vehicles Act (for short “M.V.Act”) by the Appellants - Claimants against the

Award and Decree dated 30.08.2010 passed by the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, Nellore, (for short "the Tribunal"), in M.V.O.P.No.660 of 2006 granting compensation of Rs.1,74,000/- against the claim of Rs.2,00,000/- with proportionate costs and interest @ 7.5% per annum thereon from the date of petition till the date of deposit against Respondent No.1 – Owner by exonerating Respondent No.2 – Insurer of the offending vehicle.

2. For the sake of convenience, the parties are hereinafter referred to as they are arrayed before the Tribunal in the claim petition.

3. The case of the Petitioners, in brief, is that, on 07.07.2005 while V.Kondaiah - the deceased was proceeding in a lorry bearing No.AP 26 T 3642 (hereinafter referred to as "the offending vehicle") from Nellore to Udayagiri and at about 9.00 a.m., the said lorry was stopped at Karatampadu bus stop for having tiffin. The driver and clear of the lorry and the deceased had tiffin and while the deceased was about to get into the lorry on the back side, the driver of the said lorry drove the same in a rash and negligent manner, without waiting till the deceased gets into the lorry and thereby the deceased, slipped, fell down, sustained head injury and died. A case in Crime No.78 of 2005 on the file of Atmakur Police Station was registered against the driver of the offending vehicle.

(ii) As such, the Petitioners, who are the wife and sons of the deceased filed a petition claiming compensation of Rs.2,00,000/- in view of the death of the deceased in the said accident.

(iii) On appreciation of the evidence, the Tribunal awarded total compensation of Rs.1,74,000/- against the owner of the offending vehicle by dismissing the claim against the Insurer.

(iv) Aggrieved by the exoneration of the Insurer and dissatisfied with the quantum of compensation awarded by the Tribunal, the Claimants filed the present appeal.

4. Heard Sri G.Venkateswarlu, learned counsel for the Appellants / Claimants and P.Rajanjaneyulu, learned counsel for Respondent - Insurer. Respondent No.1/owner of the vehicle remained *ex parte* before the Tribunal.

5. Learned counsel for the Appellants / Claimants submits that the compensation awarded by the Tribunal is inadequate. Learned counsel would further submit that the learned Tribunal erred in exonerating the Insurer from its liability to pay the compensation. Hence, prayed to enhance the compensation awarded by the Tribunal by fastening liability against the Insurer.

6. *Per contra*, learned counsel for Respondent - Insurer submits that the Tribunal, after considering the entire evidence on record, has awarded a just and reasonable compensation by exonerating the Insurance Company. There are no grounds warranting interference of this Court. Hence, prayed for dismissal of the appeal.

7. Considered the submissions of learned counsels on both sides, the contentions of both parties before the Tribunal and perused and assessed the entire evidence, including the exhibited documents on record.

8. The points that arise for consideration are:

(1) Whether the compensation awarded by the Tribunal is just and reasonable, or whether the Appellants/Claimants are entitled to enhancement of compensation?

(2) Whether the Tribunal was justified in exonerating the Insurer from liability to pay the compensation?

POINT Nos.(1) & (2):

9. There is no dispute with regard to the factum of the accident that cause due to the rash and negligent driving of the driver of the offending vehicle resulting in the death of the deceased.

10. Coming to the quantum of compensation, it is a case where the Claimants are the wife and sons of the deceased. According to them, the accident occurred on 07.07.2005, the deceased was aged 50 years, used to work as a Coolie for loading and unloading. The learned Tribunal had considered the income of the deceased at Rs.1,750/- per month.

11. Considering the age, avocation of the deceased and the date of accident, this Court is of the considered view that the income of the deceased can be taken at Rs.3,000/- per month.

12. In terms of the Constitution Bench decision in ***National Insurance Company Limited v. Pranay Sethi***[1]**,** the deceased being a coolie and aged about 50 years at the time of the accident, an addition of 25% of the established income is warranted towards future prospects. Thus, the monthly income would be Rs.3,000/- + Rs.750/- **=** Rs.3,750/-**.** As per ***Pranay Sethi*** (referred supra), following ***Sarla Verma v. Delhi Transport***

[1] (2017) 16 SCC 680

***Corporation*,**[2] since the deceased herein is married and was survived by three dependants i.e., wife and two sons, 1/3rd of his income has to be deducted towards personal and living expenses. After deducting the same, the contribution of the deceased to the family would be Rs.2,500/- per month. The annual contribution would therefore be Rs.30,000/-. Applying the multiplier '13', the loss of dependency comes to Rs.3,90,000/- (Rs.30,000 × 13).

13. On the point of the conventional heads, as per the judgment in ***Pranay Sethi (supra), Magma National Insurance Company Limited v. Nanu Ram @ Chuhru Ram and Ors***.[3], ***Smt. Anjali and Others v. Lokendra Rathod and Others***[4], ***United India Insurance Co. Ltd v. Satinder Kaur @ Satwinder Kaur and ors*****[5].** and ***Rojalini Nayak and others v. Ajit Sahoo and others*****[6]**, this Court can award the enhanced amounts under the conventional heads of loss of estate, loss of consortium and funeral expenses. Appellant No.1, being the wife of the deceased, is entitled to spousal consortium; Appellant Nos.2 and 3, being the sons of the deceases are entitled to parental consortium. Accordingly, a sum of Rs.48,400/- each is awarded to Appellant Nos.1 to 3 i.e., in total Rs.1,45,200/-. The Appellants are further entitled to Rs.18,150/- towards funeral expenses and Rs.18,150/- towards loss of estate as was awarded in ***Rojalini Nayak case***(referred to supra). Thus, the compensation payable to the Claimants is re-determined as under:

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[2] (2009) 6 SCC 121
[3] (2018) 18 SCC 130
[4] (2022) SCC OnLine SC 1683
[5] (2020) 5 SCC 1
[6] 2024 INSC 584

Heads of Compensation	Award of Tribunal in Rs.	Amount of compensation awarded by this Court in Rs.
Loss of Dependency	1,54,000.00	3,90,000.00
Loss of Consortium	10,000.00	1,45,200.00
Loss of Estate	5,000.00	18,150.00
Funeral Expenses	5,000.00	18,150.00
Total	**1,74,000.00**	**5,71,500.00**

14. Coming to the liability to pay the compensation, as can be seen from Ex.B.1 – Insurance Policy, it is a Goods Carrier B Package Policy. The learned Tribunal exonerated the Insurer from its liability on the ground that, no premium has been collected to cover the risk of the coolie. According to the Claimants, the deceased was proceeding in the lorry for loading and unloading purpose. The offending vehicle was loaded with cool drink bottles. No doubt, no premium has been collected to cover the risk of the coolies. However, the fact remains, the policy is a package policy. The Hon'ble Supreme Court in **Sunita v. United India Insurance Co. Ltd.**[7]**,** though the vehicle in question therein was insured with "Liability Only Policy" and no premium was paid to cover the driver, owner, or a gratuitous passenger travelling therein, directed the Insurer to pay the compensation at the first instance and then recover from the owner. In the instant case, the policy is a package policy. In view of the judgment in **Sunita's** case referred to *supra, e*ven if the status of the deceased in the offending vehicle at the time of the accident is considered as a gratuitous passenger in a goods vehicle, pay and recovery can be ordered. In such circumstances, this Court is directing the

[7] 2025 INSC 867

Insurance Company to pay the amount and then recover from the owner of the offending vehicle.

15. Therefore, in view of the foregoing discussion and following the principles laid down by the Hon'ble Supreme court in the Judgments *supra,* this Court is of the opinion that the award passed by the Tribunal warrants interference and thereby, enhanced the compensation from Rs.2,10,500/- to Rs.5,38,300/- by directing the Insurer to pay the compensation to the Appellants at the first instance and then recover the same from the owner of the offending vehicle.

16. In result, the appeal is allowed with costs and the compensation amount is enhanced from Rs.1,74,000/- to Rs.5,71,500/- along with interest @ 7.5% per annum from the date of petition till the date of deposit.

(ii) Respondent No.2 / Insurance Company is directed to deposit the entire compensation amount with accrued interest and costs within two months from the date of receipt of copy of this judgment, at the first instance and shall thereafter be entitled to recover the amount from the owner of the offending vehicle in accordance with law.

(iii) Upon such deposit the Appellant No.1 / wife is entitled to the enhanced compensation awarded by this Court in addition to the compensation awarded to her by the Tribunal under the same apportionment and she is permitted to withdraw the same with interest accrued thereon.

(iv) The Tribunal shall proceed to pay the amount in the aforesaid terms, adjusting the amount, if any, already paid.

(v) The Appellants / Claimants are directed to pay the deficit court before the Tribunal forthwith.

As a sequel, interlocutory applications pending for consideration, if any, shall stand closed.

Dr.JUSTICE VENKATA JYOTHIRMAI PRATAPA

Date:18.11.2026
Dinesh

THE HON'BLE DR. JUSTICE VENKATA JYOTHIRMAI PRATAPA

M.A.C.M.A.No.211 of 2011

DATE:18.11.2026

Dinesh