APHC010489062011

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: 310/2011

Between:

1. VELLA SATYANARAYANA, S/O.GANIRAJU VILLAGE SERVANT R/O.LOLLA VILLAGE, RAYAVARAM MANDAL, EAST GODAVARI DISTRICT.
2. VELLA SATYAVATHI, W/O.SATYANARAYANA HOUSEWIFE R/O.LOLLA VILLAGE, RAYAVARAM MANDAL, EAST GODAVARI DISTRICT.
3. VELLA SURYA PRABHA, D/O.SATYANARAYANA [PETITIONER NO.3 IS NOT NECESSARY] R/O.LOLLA VILLAGE, RAYAVARAM MANDAL, EAST GODAVARI DISTRICT.

...APPELLANT(S)

AND

1. P. SATYANARAYANA REDDY, S/O.RAMAKRISHNA REDDY OWNER OF LORRY BEARING NO.AP 7T 6055 R/O.D.NO.11-15-13/1, RAMANAYYAPETA, KAKINADA, EAST GODAVARI DISTRICT.
2. THE NEW INDIA ASSURANCE COMPANY LIMITED, REP BY ITS DIVISIONAL MANAGER O/O.RAJAHMUNDRY, EAST GODAVARI DISTRICT.
3. P BALARAMA KRISHNA REDDY, S/O.BRAHMA REDDY BUSINESS R/O.KOMARIPALEM VILLAGE, BICCAVOLE MANDAL, EAST GODAVARI DISTRICT.
4. PALIVELA VEERRAJU, S/O.NAGESWARA RAO R/O.KURMAPURAM VILLAGE, RAYAVARAM MANDAL, EAST GODAVARI DISTRICT.

...RESPONDENT(S):

Counsel for the Appellant(S):

1. K VENKATESH

Counsel for the Respondent(S):

1. A JAYANTHI

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 Judgment and Decree dated 17.08.2010 passed by the Chairman, Motor Accidents Claims Tribunal-cum-Principal District Judge, East Godavari District, Rajahmundry, (for short "the Tribunal"), in M.V.O.P.No.722 of 2006 granting compensation of Rs.1,37,500/- to Petitioner Nos.1 and 2 by dismissing the claim of Petitioner No.3 against with proportionate costs and interest @ 7.5% per annum thereon from the date of petition till the date of realization against Respondent Nos.1 & 4 by dismissing the claim against Respondent Nos.2 and 3.

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 25.04.2006 when Vella Ganesh @ Ganiraju – the deceased was going to his village Lolla on his bicycle from Rayavaram at about 6.30 p.m., when he reached Lolla Sivaru, a lorry bearing No.AP 7 T 6055 (hereinafter referred to as "the offending vehicle") being driven by its driver in a rash and negligent manner at a high speed, dashed against the deceased. As a result, the deceased received injuries all over his body and died on the spot.

(ii) As such, the Petitioners, who are the parents and sister 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.1,37,500/- to Petitioner Nos.1 and 2 by dismissing the claim of Petitioner No.3 against Respondent Nos.1 and 4 by dismissing the claim against Respondent Nos.2 and 3.

(iv) Aggrieved by the exoneration of the Insurer, dismissal of claim of Petitioner No.3 and dissatisfied with the quantum of compensation awarded by the Tribunal, the Claimants filed the present appeal.

4. Heard Sri K.Venkatesh, learned counsel for the Appellants / Claimants and Ms.A.Jayanthi, learned counsel for Respondent No.2 - Insurer. Respondent Nos.1, 3 and 4 were 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. It is further submitted that the learned Tribunal ought to have granted compensation to Appellant No.3, who is the unmarried sister of the deceased.

6. *Per contra*, learned counsel for Respondent No.2 - Insurer submits that the Tribunal, after considering the entire evidence on record, has awarded a just and reasonable compensation to Appellant Nos.1 and 2 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 Appellants / Claimants are entitled to enhancement of compensation, including compensation to Appellant No.3, who is the unmarried sister of the deceased?*

(2) *Whether the Tribunal was justified in exonerating the Insurance Company from its 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. As per the Claimants, who are the parents and unmarried sister of the deceased, the deceased was aged about 14 years as on the date of the accident. This Court is of the view that Petitioner No.3, being the unmarried sister of the deceased, is also entitled to compensation. The untimely death of her brother at a tender age would have undoubtedly caused her mental agony and loss of love and affection. Merely because she is the sister of the deceased, her claim for compensation cannot be rejected, particularly when she is also one of the legal representatives of the deceased. Therefore, this Court is of the considered opinion that Petitioner No.3 is also entitled to a

share in the compensation awarded in the present case, along with the parents of the deceased.

11. Coming to the quantum of compensation, as per the Claimants, who are the parents and unmarried sister of the deceased, the deceased was 14 years old by the date of the accident. The learned Tribunal had taken the income of the deceased as Rs.15,000/- per annum. As is held by the Hon'ble Supreme Court in **Hitesh Nagjibhai Patel v. Bababhai Nagjibhai Rabari & Anr.**[1]**,** in view of the exposition of law, even in case of minor deceased, we must advert to the prevailing minimum wages, which for the skilled ones, as in the year of accident. In view of the said judgment, considering the age of the deceased and the year of the accident i.e., 2006, this Court is of the 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***[2]**,** the deceased being unmarried and aged below 40 years, an addition of 40% of the established income is warranted towards future prospects. Thus, the monthly income would be Rs.3,000/- + Rs.1,200/- **=** Rs.4,200/-**.** As per ***Pranay Sethi*** (referred supra), following ***Sarla Verma v. Delhi Transport Corporation*****,**[3] since the deceased herein is unmarried, 50% 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.2,100/- per month. The annual contribution would therefore be Rs.25,200/-. Applying the multiplier '18' as per

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[1] 2025 INSC 1070
[2] (2017) 16 SCC 680
[3] (2009) 6 SCC 121

the judgment of the Hon'ble Supreme Court in **Hitesh Nagjibhai Patel *(supra)***, the loss of dependency comes to Rs.4,53,600/- (Rs.25,200 × 18).

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***.[4], ***Smt. Anjali and Others v. Lokendra Rathod and Others***[5], ***United India Insurance Co. Ltd v. Satinder Kaur @ Satwinder Kaur and ors***[6]***.*** and ***Rojalini Nayak and others v. Ajit Sahoo and others***[7], this Court can award the enhanced amounts under the conventional heads of loss of estate, loss of consortium and funeral expenses. Appellant Nos.1 to 3, being the parents and unmarried sister of the deceased, are entitled to filial 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:

Heads of Compensation	**Award of Tribunal in Rs.**	**Amount of compensation awarded by this Court in Rs.**
Loss of Dependency	1,20,000.00	4,53,600.00
Loss of Consortium	---	1,45,200.00
Loss of Estate	15,000.00	18,150.00
Funeral Expenses	2,500.00	18,150.00
Total	**1,37,500.00**	**6,35,100.00**

[4] (2018) 18 SCC 130
[5] (2022) SCC OnLine SC 1683
[6] (2020) 5 SCC 1
[7] 2024 INSC 584

14. Coming to the liability to pay the compensation, as can be seen from the material placed on record, Respondent No.1 is the owner of the offending vehicle and Respondent No.2 is its insurer and Respondent No.4 was the driver of the offending vehicle as on the date of the accident. The learned Tribunal exonerated the Insurance Company from its liability on the ground that the driver had not possessed driving licence to drive the offending vehicle. Admittedly, the Insurer had issued policy and the same was in existence as on the date of the accident. It is settled law that, because of the violation of conditions of the policy by the owner, the Insurer cannot be exonerated completely from its liability to pay the compensation. The Claimants in the present case are third parties. In the light of the existence of the policy, since the Motor Vehicles Act is a beneficial legislation, to meet the ends of justice, it is apposite to direct the Insurance Company to pay the compensation to the Claimants at the first instance 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.1,37,500/- to Rs.6,35,100/- 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.1,37,500/- to Rs.6,35,100/- along with interest @ 7.5% per annum from the date of petition till the date of realization.

(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, Appellant No.3 is entitled to an amount of Rs.1,35,100/- and is permitted to withdraw the same. Appellant Nos.1 & 2 are entitled to rest of the amount equally and are 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.310 of 2011

DATE:18.11.2026

Dinesh