

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

FRIDAY, THE TWENTY NINTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE SRI JUSTICE LAXMI NARAYANA ALISHETTY

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 16 OF 2015

Appeal filed section 173 of M.V. Act against the judgment and decree in OP.No. 211 of 2009 dated 24.07.2014 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge, Nalgonda at Suryapet.

Between:

1. Geesa Narasamma, W/o Late Shankar, aged 35 years, Occ: Household
2. Geesa Suresh, S/o. Late Shankar, aged 13 years, Occ: student
3. Geesa Ramu, S/o. Late Shankar, aged 10 years, Occ: student
4. Geesa Venkaiah, S/o. Late Laxmaiah, aged 74 years, Occ: Labour
5. Geea Venkamma, W/o. Venkaiah, aged 69 years, Occ: Labour (died) her LR's Appellants 1 to 4 are already on record.
(Petitioner Nos.2 and 3 being minors represented by their natural mother and guardian Geesa Narsamma, the petitioner No.1 herein).
All are R/o. Jajireddygudem Village of Arvapally mandal, Nalgonda District

...APPELLANTS/PETITIONERS

AND

1. Bhookya Venkanna, S/o. Somla, Aged 31 years, Occ: tractor driver R/o. Balajinagar Suryapet town, Nalgonda District
(Driver of Tractor- Trailer bearing No.AP-24-W-0515-AP-24-W0516)
2. T.Padma, W/o. Sathyanarayana Reddy, aged: Major, R/o 7-42, Pillalamarry Village of Suryapet mandal, Nalgonda district.
(Owner of Tractor-Trailer bearing No.Ap-24-W-0515-aP-24-W-0516)
3. United India Insurance Company Ltd., Branch Office Opposite to Hotel Vijetha, K.K. Road Suryapet town, Nalgonda District.
(Police No.051702/31/07/01/00003333- valid from 20-03-2008 to mid night of 19-03-2009)

...RESPONDENTS

Counsel for the Appellants: SRI. P RAMAKRISHNA REDDY

Counsel for the Respondent No.3: A V K S PRASAD

Counsel for the Respondent No.1 and 2: None Appeared

The Court made the following: JUDGMENT

HON'BLE SRI JUSTICE LAXMI NARAYANA ALISHETTY

M.A.C.M.A.NO.16 OF 2015

JUDGMENT:

Heard learned counsel Sri P.Sriharsha Reddy for the appellants/claimants and Sri. A.V.K.Prasad, learned standing counsel for respondent no.3.

2. The present appeal has been filed by the appellants/claimants dissatisfied with the award passed by the Chairman, Motor Accidents Claims Tribunal-cum- II Additional District Judge, Nalgonda at Suryapet (for short, 'MACT') in M.V.O.P.No.211 of 2009, dated 24.07.2014 and thereby seeking enhancement of compensation.

3. The brief factual matrix of the present appeal is as under.

4. On 17.07.2008, the deceased i.e., Geesa Shakar went to Suryapet on personal work and after completion of his work, he boarded an Auto bearing registration No.AP-24-V-2122 to go to their native place Jajireddygudem and at 8.00 pm. While the Auto was proceeding near Moodu Motala Bavi, a Tractor-Trailer bearing registration No.AP-24-W-0515 and AP-24-W-0516 dashed the said Auto from opposite direction and due to which, the deceased

received grievous injuries and died. The Police, Arvapally P.S., registered a case in Crime No.37/2008 under Sections 304-A and 337 IPC against the respondent No.1-driver of the offending vehicle and filed charge sheet.

5. The claimants, i.e., petitioner No.1 is the wife, petitioner Nos.2 and 3 are children and petitioner Nos.4 and 5 are parents of deceased, have filed claim petition against driver, owner of the vehicle and insurance company under Section 166 read with Section 140 of Motor Vehicles Act, 1988 before the MACT claiming compensation of Rs.7,50,000/- along with interest from the date of the accident till the date of realization.

6. The deceased was aged about 29 years as on the date of accident, hale and healthy and was a private employee and was getting an income of Rs.5,000/- per month and petitioners lost the support of the deceased.

7. The respondent No.1-driver and respondent No.2-owner of offending vehicle remained *ex-parte*. The 3rd respondent-Insurance Company filed counter denying the allegations in the claim petition and contended that the driver of the Tractor was not having valid

driving license and further, the insured and insurer of auto are necessary parties and that the compensation claimed by the petitioners is highly exorbitant and excess and therefore, prayed for dismissal of the claim petition.

8. On the basis of the above pleadings, the MACT framed the following issues:

- i) Whether the deceased Geesa Shankar died in the motor vehicle accident, if so, whether the accident occurred due to rash and negligent driving by the driver of tractor-trailer bearing No.AP-24-W-0515 - AP-24-W-0516 ?
- ii) Whether the petitioners are entitled to claim compensation, if so, to what amount and from whom it should be collected ?
- iii) To what relief ?

9. In order to substantiate the case, P.Ws.1 to 3 were examined and Exs.A1 to A5 were marked on behalf of the claimants. To disprove the claim of the appellant, the 3rd respondent-insurance company did not examine any witnesses, but marked insurance policy is marked as Ex.B1 on its behalf.

10. The MACT after considering the evidence placed on record, came to a conclusion that the accident took place due to rash and

negligent driving of the Tractor-Trailer bearing registration Nos. AP-24-W-0515 & AP-24-W-0516 and awarded compensation of Rs.4,01,0000/- along with interest @ 6% per annum from the date of petition till the date of depositing of amount. The driver, owner of the offending vehicle and the Insurance company i.e., respondent Nos.1 to 3 were held to be jointly and severally liable to pay the said compensation.

11. During the course of hearing, learned counsel for the appellants contended that MACT had wrongly awarded the compensation without appreciating the oral, documentary evidence and the income of the deceased. He contended that the MACT ought to have deducted $1/4^{\text{th}}$ towards personal expenses instead of $1/3^{\text{rd}}$ as the defendants are five in number. He further contended that MACT had failed to take future prospects into consideration and granted less compensation. He further contended that MACT had wrongly awarded the compensation towards consortium, loss of estate, funeral expenses etc. and finally prayed to allow the appeal.

12. In support of his contention, he placed reliance on the following decisions:

- i) **Sarla Verma and others vs. Delhi Transport Corporation and another¹;**
- ii) **National Insurance Company Limited vs. Pranay Sethi and others²;**
- iii) **Jyoti and others vs. National Insurance Co.Ltd., and others³**

13. On the other hand, learned standing counsel for the insurance company would submit that on due consideration of the evidence and material placed, the Hon'ble MACT has rightly awarded the compensation and the grounds raised by the appellants are untenable and therefore, prayed for dismissal of the appeal.

Consideration :

14. With regard to issue no.1, on consideration of evidence and the material placed on record, the MACT had come to the conclusion that the accident occurred due to rash and negligent driving of the driver of the offending vehicle, resulting in death of the deceased.

¹ (2009) 6 SCC 121

² (2017) 16 SCC 680

³ 2023 ACJ 341

15. With regard to the income of the deceased, the MACT had taken the monthly income of the deceased as Rs.3,000/-, which is in dispute in the present appeal.

16. In **Ramachandrappa vs. Manager, Rayal Sundaram Alliance Insurance Company Limited⁴**, the Hon'ble Apex Court at paragraphs-13 & 14 observed that,

“13.....appellant was aged about 35 years and was working as coolie and was earning Rs.4,500/- per month at the time of the accident.

.....
The appellant was working as a coolie and, therefore, we cannot expect him to produce any documentary evidence to substantiate his claim. In the absence of any other evidence contrary to the claim made by the claimant, in our view, in the facts of the present case, the Tribunal should have accepted the claim of the claimant.

“14.....the Hon'ble Apex Court observed that the Tribunal need not accept the claim of the claimant in the absence of supporting material. It depends on the facts of each case. In a given case, if the claim made is so exorbitant or if the claim made is contrary to ground realities, the Tribunal may not accept the claim and may proceed to determine the possible income by resorting to some guesswork, which may include the ground realities prevailing at the relevant point of time.”

17. The Motor Vehicle Act is a beneficial legislation aimed at providing relief to the victims or their families, therefore, in view of the judgment of Hon'ble Apex Court in **Ramachandrappa** (supra),

⁴ (2011) 13 SCC 236

this Court is of the considered view that monthly income of the claimant can be taken as Rs.4,500/-, even in the absence of any evidence.

18. In so far as the deduction towards personal and living expenses is concerned, the deceased was married and he is survived by wife, two children and parents, i.e., in total five dependents. As per the decision of Hon'ble Supreme Court in **Sarla Verma** (supra) at paragraph-30, the standard deduction towards personal and living expenses of the deceased should be one-third where the number of dependent family members is 2 to 3, one-fourth where the number of dependent family members is 4 to 6 and one-fifth where the number of dependent family members exceeds six. In the present case, total dependents of the deceased are five. However, it is informed that during the pendency of appeal, mother of the deceased expired, thereby the number of dependents of deceased is now reduced to four. The Tribunal did not treat the father of the deceased as dependent, despite he being aged 74 years. In considered view of this Court, father of the deceased is also be treated as dependent and thus, total dependents of the deceased comes to four. Therefore, as per the

decision of the Hon'ble Apex Court in **Sarla Verma**, the deduction towards personal and living expenses of the deceased has to be one-fourth (1/4th).

Conclusion:

19. In considered view of this Court, monthly earnings of the deceased can be taken as Rs.4,500/- and annual earnings comes to Rs.54,000/-. Thus, compensation towards loss of earnings is enhanced from Rs.36,000/- to Rs.54,000/-. Since the total dependents of the deceased are four, one-fourth of the income of the deceased requires to be deducted towards his personal expenses.

20. In **Pranay Sethi** (supra), Hon'ble Apex Court at paragraph 59.4 held that in case the deceased is self-employed or on a fixed salary an addition of 40% of established income should be warrant where the deceased was below the age of 40 years.

21. With regard to multiplier, as per the decisions of Hon'ble Supreme Court in **Sarla Verma** (supra) and **Jyothi** (supra), the multiplier is '17' for the age groups of 26 to 30. In the instant appeal, though the MACT observed that the age of the deceased

was 30 years at the time of accident, ultimately the MACT has taken the multiplier '16' treating that age of the deceased could be between thirty two to thirty five years without recording any reasons. Therefore, the MACT ought to have considered the age of the deceased as 30 years and thus, should have applied multiplier of '17' instead of '16'.

22. In view of the above, the appellants are entitled for the following compensation:

Sl.No.	Head	Compensation awarded
1	Loss of dependency	Rs.9,18,000/- (Rs.4,500/- x 12 x 17) minus one-fourth i.e., Rs.2,29,500/-, which comes to Rs.6,88,500/-
2	Future prospects	Rs.2,75,400/- (i.e., 40% of annual income i.e., Rs.6,88,500/-)
3	Total loss of dependency	Rs.6,88,500/- + Rs.2,75,400 = Rs.9,63,900/-
4	Loss of estate	Rs. 15,000/-
5	Loss of wife consortium	Rs. 40,000/-
6	Loss of parental consortium to two children (Rs.40,000/- each)	Rs. 80,000/-
7	Funeral expenses	Rs. 15,000/-
8	Total compensation to be paid	Rs.11,13,900/-

23. The Appeal is allowed enhancing compensation from Rs.4,01,000/- to Rs.11,13,900/- with interest @ 6% per annum from the date of petition till the date of realization, subject to payment of deficit Court fee on the enhanced compensation amount. The respondent no.1-Insurance Company shall deposit the compensation amount within a period of eight (8) weeks from the date of receipt of copy of this order.

24. Pending miscellaneous applications if any shall stand closed.

Sd/- P NAGABHUSHAMBA
ASSISTANT REGISTRAR
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SECTION OFFICER

To,

1. The Chairman, Motor Accident Claims Tribunal-cum-II Additional District Judge, Nalgonda at Suryapet (With records if any)
2. One CC to SRI. P RAMAKRISHNA REDDY, Advocate [OPUC]
3. One CC to SRI. A V K S PRASAD, Advocate [OPUC]
4. Two CD Copies

Asrl/pr



HIGH COURT

LNA, J

DATED: 29/09/2023

JUDGMENT
MACMA.No.16 of 2015



ALLOWING THE MACMA

7/VW
3/12/24

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

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(Petitioner Nos.2 and 3 being minors represented by their natural mother and
guardian Geesa Narsamma, the petitioner No.1 herein).
All are R/o. Jajireddygudem Village of Arvapally mandal, Nalgonda District

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...RESPONDENTS

Appeal filed section 173 of M.V. Act against the judgment and decree in OP.No. 211 of 2009 dated 24.07.2014 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge, Nalgonda at Suryapet.

ORDER: This appeal coming on for hearing and upon perusing the grounds of appeal, the Judgment and Decree of the Lower Court and the material papers in the case and upon hearing the arguments of SRI. P RAMAKRISHNA REDDY, Advocate

for the for the Appellants and of SRI A V K S PRASAD, Advocate for the Respondent No.3 and None appeared for the Respondent No.1 and 2.

The Court while allowing this Appeal and in modification of the Decree of the Lower Court doth Order and Decree as follows:

1. That the compensation amount of Rs. 4,01,000/- awarded by the Lower Court be and hereby is enhanced to Rs. 11,13,900/- with interest @ 6% per annum from the date of petition till the date of realization;
2. That the enhanced compensation amount of Rs. 7,12,900/- shall carry interest at the rate of 6% Per annum from the date of filing of the petition till the date of realization, subject to payment of deficit court fee on the enhanced compensation;
3. That the respondent No.1-Insurance Company shall deposit the compensation amount within a period of eight (8) weeks from the date of receipt of copy of this order;
4. That save as aforesaid, the decree of the Lower Court shall stand confirmed in all other respects; and
5. That there shall be no order as to costs in this appeal.

Sd/- P NAGABHUSHAMBA
ASSISTANT REGISTRAR

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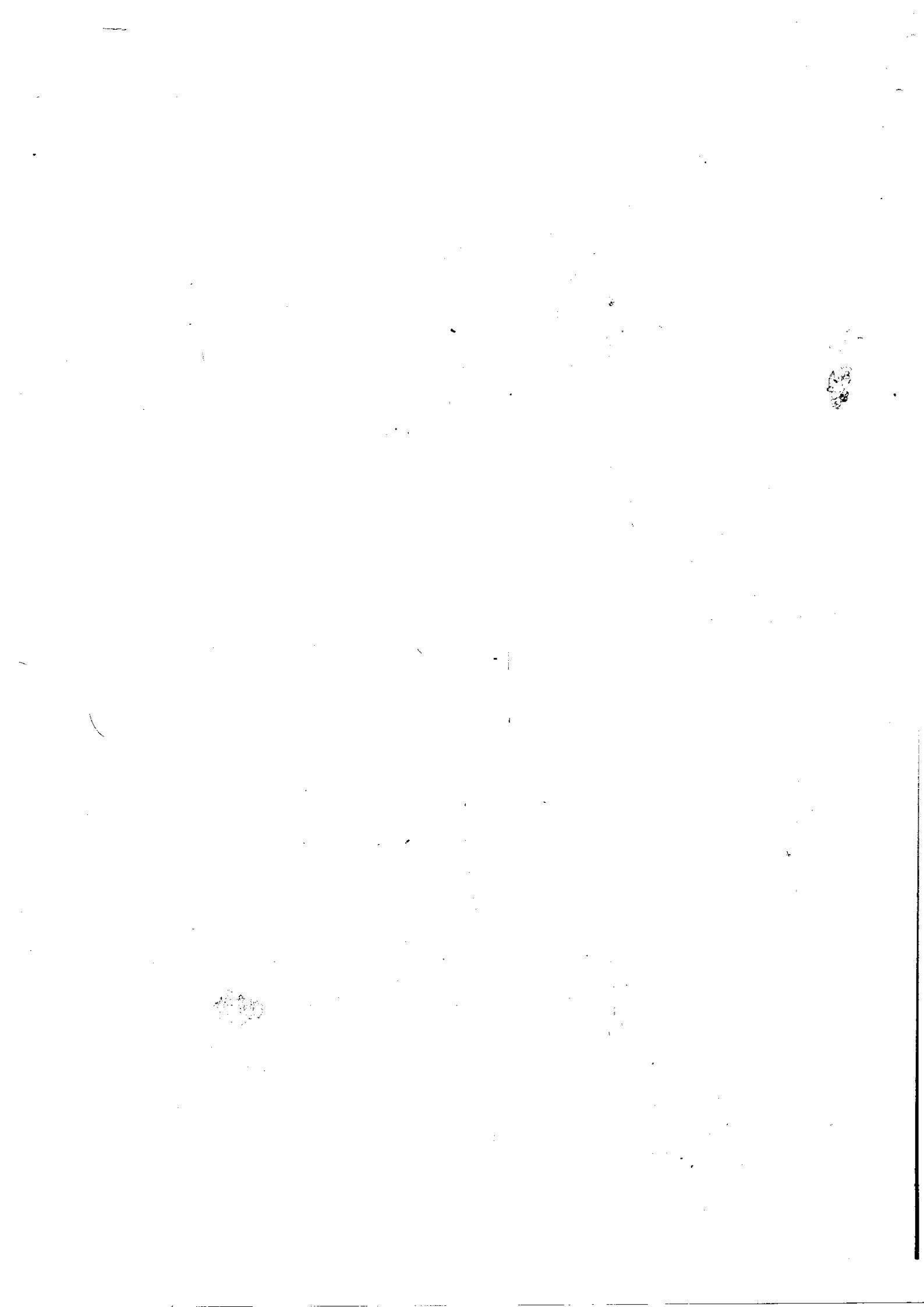
SECTION OFFICER

To,

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2. Two CD Copies

Asrl/pr

[Signature]



HIGH COURT
DATED: 29/09/2023

DECREE
MACMA.No.16 of 2015

ALLOWING THE MACMA

④ NW
3/2/24