

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

WEDNESDAY, THE THIRTY FIRST DAY OF JULY
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE SUJOY PAUL
AND
THE HONOURABLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 1529 OF 2015

Appeal filed under Section 173 of M.V.Act against the Order and Decree dated 10-11-2014 made in MVOP No. 234 of 2011 on the file of the Court of the Motor Accidents Claims Tribunal Cum I-Additional Chief Judge, City Civil Court, at Secunderabad.

Between:

1. Andhra Pradesh State Road Transport Corporation, Rep. by Vice Chairman and Managing Director, Office Azamabad, Musheerabad, Hyderabad.
2. Depot Manager, Hayathnagar, Andhra Pradesh State Road Transport Corporation, Ranga Reddy District.

...APPELLANTS

AND

1. Smt. Marrepally Kanka Laxmi W/o. Late Marrepally Venkat Raman, Aged about 42 years, Occ: Housewife R/o. 12-10-229/3, Sitaphalmandi, Secunderabad.
2. Miss. Laxmi Priya D/o. Late Sri. M.Venkata Ramana, Aged about 22 years, Student, R/o. 12-10-229/3, Sitaphalmandi, Secunderabad.
3. M. Prasanna Kumar, Aged about 15 years, Occ Student, Minor, Rep. by his Mother and Natural guardian Smt. M. Kanaka Laxmi, R/o. 12-10-229/3, Sitaphalmandi, Secunderabad.
4. Marrepally Thirupathamma W/o. Late M. Venkateshwarlu, Aged about 62 years, Occ: Housewife, R/o. 12-10-229/3, Sitaphalmandi, Secunderabad.

...RESPONDENTS/PETITIONERS

MACMAMP. NO: 3261 OF 2015

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 grant stay of execution of the judgment and decree of the Motor Accidents Claims Tribunal cum-I Additional Chief Judge, City Civil Court, Secunderabad dt. 10/11/2014 made in MVOP no. 234 of 2011.

MACMAMP. NO: 5386 OF 2015

Between:

1. Smt. Marrepally Kanka Laxmi W/o. Late Marrepally Venkata Ramana, Occ. Housewife R/o. 12-10-229/3, Sitaphalmandi, Secunderabad.
2. Miss. Laxmi Priya D/o. Late Sri. M.Venkata Ramana, Student, R/o. 12-10-229/3, Sitaphalmandi, Secunderabad.
3. M. Prasanna Kumar, Aged about 15 years, Occ Student, Minor, d/o Late Sri. M. Venkata Ramana, Rep. by his Mother and Natural guardian Smt. Marrepally Kanaka Laxmi P1
4. Marrepally Thirupathamma W/o. Late M. Venkateshwarlu, Occ. Housewife, R/o. 12-10-229/3, Sitaphalmandi, Secunderabad.

...PETITIONERS/ RESPONDENTS

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 stay orders passed in MACMAMP No.3261 of 2015 in MACMA No.1529 of 2015 dated 30.07.2015 and dismiss the MACMA No.1529/2015.

MACMAMP. NO: 5387 OF 2015

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 direct the APSRTC to pay compensation as awarded by this Court forthwith pending disposal of the above MACMA.

**Counsel for the Appellants: Sri K.V. Phani Sree rep.
Sri M. Ram Mohan Reddy (SC FOR TSRTC)**

**Counsel for the Respondents: Sri A. Poorna Chandra Rao rep.
Sri. R. Krishna Rao**

The Court delivered the following JUDGMENT

**THE HONOURABLE SRI JUSTICE SUJOY PAUL
AND
THE HONOURABLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO**

M.A.C.M.A.No.1529 of 2015

JUDGMENT: *(per Hon'ble Sri Justice Namavarapu Rajeshwar Rao)*

This M.A.C.M.A. is filed by the appellant/TSRTC aggrieved by the order and decree, dated 10.11.2014 passed in M.V.O.P.No.234 of 2011 by the Chairman, Motor Accident Claims Tribunal-cum-I Additional Chief Judge, City Civil Court at Secunderabad (for short, "the Tribunal").

2. Heard Ms. K.V.Phani Sree, learned Counsel, representing Sri. M.Ram Mohan Reddy, learned Standing Counsel appearing for T.S.R.T.C. for the appellant and Sri A. Poorna Chandra Rao, learned counsel, representing Sri R. Krishna Rao, learned counsel appearing for the respondents and perused the record.

3. For the sake of convenience, the parties are hereinafter referred to as they are arrayed before the Tribunal.

4. The brief facts of the case are as follows :-

The petitioners-claimants, who are the wife, daughter, minor son and mother of Marrepally Venkat Ramana

(hereinafter referred to as "deceased"), filed a claim petition claiming compensation of Rs.40,00,000/- on account of the death of the deceased who died in a motor vehicle accident that occurred on 07.11.2010 at Sanathnagar main road, Balanagar, Hyderabad. According to the petitioners, on 07.11.2010 at about 8.00 p.m., while the deceased was proceeding on his scooter bearing No.AP-09-AZ-0538 towards Erragadda after crossing Fatchnagar flyover, one T.S.R.T.C. bus bearing no.AP-28-Z-0733 coming in the opposite direction, being driven by its driver in a rash and negligent manner, dashed the deceased's scooter at Sanathnagar Main Road, as a consequence of which, the deceased fell and sustained bleeding injuries to the head and other parts of the body. The deceased was rushed to the Gandhi Hospital; where he succumbed to the injuries at 9.05 p.m. on the same day while undergoing treatment. The Police of Sanathnagar Police Station registered a case in Crime No.673 of 2010 under Section 304-A IPC against the said bus driver. The petitioners are the dependents of the deceased. Hence, the claim petition.

5. Before the Tribunal, the respondent Corporation filed a counter denying the manner in which the accident occurred

and also denied the deceased's age, avocation and income. It is also contended that the accident took place due to gross negligence on the part of the deceased and that the deceased was drunk at the time of the accident. They further contended and that the claimed amount is excessive. Accordingly, prayed to dismiss the claim petition.

6. On behalf of the claimants, P.Ws.1 to 4 were examined and marked Exs.A1 to A9. No oral or documentary evidence was adduced on behalf of the respondent Corporation.,

7. After considering the oral and documentary evidence available on record, the Tribunal held that the accident occurred due to the rash and negligent driving of the driver of the R.T.C. bus driver basing on the contents of Ex.A1-FIR and Ex.A2-complaint and the evidence of PWs 1 to 3. To rebut the said evidence, the appellant Corporation did not adduce any evidence except bald suggestion that there was no negligence on the part of the driver of the RTC bus, and the deceased himself drove the vehicle in drunken condition and met with accident. As such, the Tribunal rightly came to the conclusion that the accident occurred due to rash and negligent driving of

the driver of the R.T.C. bus bearing no.AP-28 Z-0733. Accordingly, awarded an amount of Rs.40,00,000/- with interest at 7.5% per annum from the date of filing the petition till the date of realization to be paid by the respondent Corporation to the petitioner Nos.1 to 4. Challenging the same, the present M.A.C.M.A. is filed.

8. Learned counsel appearing for the respondent Corporation contended that the Tribunal erred in holding that the accident occurred due to the rash and negligent driving of the R.T.C. bus driver. Further, the Tribunal failed to consider the fact that there is negligence on the part of the deceased in causing the accident.

9. Learned counsel appearing for the respondent Corporation further contended that the Tribunal erred in taking the deceased's salary at Rs.31,073/- per month even though PW.4 did not produce his authorization letter to depose his evidence on behalf of the Company. Further, the Tribunal failed to deduct income tax on the deceased's salary and granted excessive compensation to the petitioners. Hence, prayed to allow the M.A.C.M.A. by setting aside the order of the Tribunal.

10. *Per contra*, learned counsel appearing for the petitioners claimants contended that the Tribunal, after considering the evidence placed before it, rightly came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the R.T.C. bus bearing No.AP-28-Z-0733 and rightly granted compensation, and as such, no interference is required in the same.

11. Petitioners' contention is that the deceased was working as a Senior Executive in M/s Dr. Reddy Laboratories Limited and was drawing a monthly salary of Rs.31,073/-. To prove the nature of employment and the salary, they have filed Ex.A4-Salary Certificate, Ex.A5-Service Certificate, Ex.A6-pay slip issued by employer i.e. M/s Dr. Reddy Laboratories Limited. The Tribunal has categorically discussed with regard to the above exhibits and came to the conclusion that they are in corroboration with the evidence of PW.4, Administrative Officer of Dr. Reddy Laboratories. The only contention of the appellant Corporation is that the Tribunal erred in taking the salary of the deceased at Rs.31,073/- per month even though PW.4 did not produce his authorization letter to depose his evidence on behalf of the Company.

12. It is pertinent to mention here that in ***United India Insurance Co. Ltd., Hyderabad V. K. Swaroopa Rani***¹, this Court held as follows:

"18. The submission made by the learned Counsel for the respondent/insurance company that Ex.A6 salary certificate is not proved is unsustainable."

"21. The Motor Vehicles Act is a beneficial legislation intend to provide just and reasonable compensation to the victims of motor vehicle accidents to the extent possible. The provisions have to be construed liberally in favour of the claimants. The proceedings before the Tribunal are summary in nature and strict rules of evidence and pleadings are not necessary. When such is the position, the objection raised by the Counsel for the insurance company that marking of Ex.A6 is incorrect and not according to the provisions of the Indian Evidence Act is unsustainable. It may be noted here that the insurance company did not lead any evidence either documentary or oral to exonerate themselves from the liability of paying compensation as per the salary particulars mentioned in Ex.A6. No attempt is made even by suggesting to PW1 that the contents of the said document are incorrect or false. In that view of the matter and in view of the fact that the proceedings before the Tribunal are summary in nature, this Court holds that the contents of Ex.A6-salary certificate can be looked into."

The MV Act is a beneficial legislation, so, the standard of proof ought to be the preponderance of probability and not a strict standard of proof beyond all reasonable doubt. As such, the contention of the appellant/Corporation is devoid of merit.

13. Insofar as the deceased's income is concerned, according to the petitioners, the deceased was working as Senior Executive in M/s Dr. Reddy Laboratories Limited and was drawing a salary of Rs.31,073/- per month. To prove the nature of employment and the salary, the petitioners have filed Ex.A4-Salary Certificate, Ex.A5-Service Certificate, Ex.A6-pay slip issued by employer i.e. M/s Dr. Reddy Laboratories Limited, which the appellant Corporation has not disputed. The Tribunal rightly considered the deceased's salary at Rs.31,073/- per month, for assessing the loss of dependency. Thus, the annual income of the deceased comes to (Rs.31,073/- x 12) = Rs.3,72,876/-.

14. Learned counsel appearing for the respondent Corporation rightly contended that the income tax payable ought to have been deducted from the annual income of the deceased. In **Sarla Verma and others v. Delhi Transport Corporation**², the Apex Court has categorically held that while assessing the deceased's income for compensation, the gross salary minus income tax shall be taken as the income. The Assessment Year for the deceased's income is 2010-11 and the

² 2009 ACJ 1298 (SC)

tax liability has to be calculated on the basis of the income tax slabs prevailing at that time. Hence, the income tax payable on the said amount, i.e., Rs.3,72,876/-, is:- upto Rs.1,60,000/-: NIL; From 1,60,001 to Rs.3,00,000/- (10%): Rs.14,000/-; 3,00,001/- to 3,72,876/- (20%): Rs.14,575.20 ps.(rounded off to Rs.14,580/-). Hence, the total income tax liability comes to Rs.28,580/-[Rs.14,000/-+Rs.14,580/-]. So, the loss of dependency comes to Rs.3,44,296/- (Rs.3,72,876/- minus Rs.28,580/-).

15. The Tribunal has taken the age of the deceased as 47 years and the Tribunal erroneously considered the future prospects as 30% instead of 25%. Accordingly, the loss of dependency arrives at Rs.4,30,370/- [Rs.3,44,296/- + Rs.86,074/-]. The Tribunal rightly deducted $1/4^{\text{th}}$ towards the personal and living expenses of the deceased. After deducting the $1/4^{\text{th}}$ amount, the contribution of the deceased would be Rs.3,22,777.50 ps.[Rs.4,30,370/- (minus) Rs.1,07,592.50ps.] rounded off to Rs.3,22,778/-. Since the age of the deceased was 47 years at the time of the accident, the Tribunal rightly considered the multiplier as '13' as per the decision of the Apex Court reported in **Sarla Verma** (supra). Adopting multiplier

'13', the total loss of dependency comes to Rs.3,22,778/- \times 13
= Rs.41,96,114/-.

16. The Tribunal grossly erred in awarding Rs.1,00,000/- towards loss of consortium to petitioner No.1 and a sum of Rs.1,00,000/- towards care and guidance to petitioner No.3. Further, the Tribunal also erred in awarding a sum of Rs.25,000/- towards funeral expenses. Thus, the Tribunal held that the petitioners were entitled to a sum of Rs.49,51,215/-, but since the petitioners restricted their claim to Rs.40,00,000/-, the Tribunal awarded a sum of Rs.40,00,000/- only. The above heads are need to be interfered by this Court.

17. As per the decision of the Apex Court in **National Insurance Company Ltd. Vs. Pranay Sethi**³, petitioner no.1 is entitled to a sum of Rs.48,400/- (Rs.40,000/- +10%+10%) towards spousal consortium and the claimants are further entitled to Rs.36,300/- (Rs.15,000/- +Rs.15,000/- +10% +10%) towards loss of estate and funeral expenses. Further, in view of the judgment of the Hon'ble Apex Court in **Magma General Insurance Company Limited v. Nanu Ram** @

³ (2017) 16 SCC 680

Chuhru Ram and others⁴, the petitioner Nos. 2 and 3 are entitled to Rs.40,000/- each towards parental consortium and petitioner No.4 is entitled to Rs.40,000/- towards filial consortium. Therefore, the order dated 10.11.2014 passed by the Tribunal in M.V.O.P.No.234 of 2011 is modified as follows:

S.No.	Particulars	Amount
1.	Annual salary of the deceased (Rs.31,073/-X 12)	Rs.3,72,876/-
2.	Less: Income Tax	(-) Rs. 28,580/-
3.	Net Income	Rs.3,44,296/-
4.	Add: 25% Future Prospects	Rs.86,074/-
5.	Sub-Total	Rs.4,30,370/-
6.	Less: 1/4 th towards Personal Expenditure	(-)Rs.1,07,592.50
7.	Sub-Total [5-6]	Rs.3,22,777.50 (Rounded off to Rs.3,22,778/-
9.	Total Loss of Dependency (Rs. 3,22,778/- x 13)	Rs.41,96,114/-
10.	Add : Conventional Heads (Funeral Expenses and Loss of Estate) (Rs.15,000/- + Rs.15,000/- +10%+10%)	Rs.36,300/-
11.	Add: Loss of spousal consortium (Rs.40,000/- +10%+10%)	Rs.48,400/-
12.	Add: Loss of parental and filial consortium	Rs.1,20,000/-
	Total Compensation	Rs.44,00,814/-

18. Though the claimed amount is Rs.40,00,000/-, invoking the principle of just compensation, and in view of the law laid

⁴(2018) 18 SCC 130

down by the Hon'ble Supreme Court in **Rajesh vs. Rajbir Singh**⁵ and in a catena of decisions, this Court is empowered to grant compensation beyond the claimed amount.

19. The Tribunal rightly awarded interest at 7.5% p.a. from the date of petition till the date of realization, which needs no interference from this Court.

20. (a) Accordingly, the M.A.C.M.A. is partly allowed by modifying the order and decree dated 10.11.2014 in M.V.O.P.No.234 of 2011 passed by the Tribunal by enhancing the compensation awarded by the Tribunal from Rs.40,00,000/- to **Rs.44,00,814/-** (Rupees Forty four Lakh, Eight Hundred Fourteen only) with interest @ 7.5 % p.a. from the date of petition till the date of realization. On such deposit, the petitioners are permitted to withdraw the said amount in the same manner and proportion as determined by the Tribunal. However, the petitioners shall pay the deficit court fee on the enhanced amount.

(b) The respondents are directed to deposit the said amount with interest after giving due credit to the amount already

⁵ MANU/SC/5180/2013

deposited, if any, within a period of two months from the date of receipt of a copy of this judgment. There shall be no order as to costs.

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

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Sd/- MOHD. ISMAIL
ASSISTANT REGISTRAR

SECTION OFFICER

To

1. The Motor Accidents Claims Tribunal Cum-I-Additional Chief Judge, City Civil Court, at Secunderabad. (with records)
2. One CC to Sri M. Ram Mohan Reddy (SC FOR TSRTC) [OPUC]
3. One CC to Sri R. Krishna Rao, Advocate [OPUC]
4. Two CD Copies

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HIGH COURT

DATED: 31/07/2024

JUDGMENT

MACMA.No.1529 of 2015



PARTLY ALLOWING MACMA
WITHOUT COSTS

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IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

WEDNESDAY, THE THIRTY FIRST DAY OF JULY
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE SUJOY PAUL
AND
THE HONOURABLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 1529 OF 2015

Between:

1. Andhra Pradesh State Road Transport Corporation, Rep. by Vice Chairman and Managing Director, Office Azamabad, Musheerabad, Hyderabad.
2. Depot Manager, Hayathnagar, Andhra Pradesh State Road Transport Corporation, Ranga Reddy District.

...APPELLANTS

AND

1. Smt. Marrepally Kanka Laxmi W/o. Late Marrepally Venkat Raman, Aged about 42 years, Occ: Housewife, R/o. 12-10-229/3, Sitaphalmandi, Secunderabad.
2. Miss. Laxmi Priya D/o. Late Sri. M.Venkata Ramana, Aged about 22 years, Student, R/o. 12-10-229/3, Sitaphalmandi, Secunderabad.
3. M. Prasanna Kumar, Aged about 15 years, Occ Student, Minor, Rep. by his Mother and Natural guardian Smt. M. Kanaka Laxmi, R/o. 12-10-229/3, Sitaphalmandi, Secunderabad.
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...RESPONDENTS/PETITIONERS

Appeal filed under Section 173 of M.V.Act against the Order and Decree dated 10-11-2014 made in MVOP No. 234 of 2011 on the file of the Court of the Motor Accidents Claims Tribunal Cum-I-Additional Chief Judge, City Civil Court, at Secunderabad.

This appeal coming on for hearing and upon perusing the grounds of appeal, the Judgment and Decree of the Court below and the material papers in the case and upon hearing the arguments of Sri K.V. Phani Sree rep Sri M. Ram Mohan

Reddy (SC FOR TSRTC) Advocate for the appellants and Sri A. Poorna Chandra Rao rep. Sri. R. Krishna Rao, Advocate for the Respondents.

This Court doth Order and Decree as follows:

1. That the MACMA No. 1529 of 2015 be and hereby is partly allowed by modifying the order and decree dated 10.11.2014 in M.V O.P.No. 234 of 2011 passed by the Tribunal by enhancing the compensation awarded by the Tribunal from Rs. 40,00,000/- to Rs. 44,00,814/- (rupees Forty four Lakh, Eight Hundred Fourteen only) with interest @ 7.5% p.a. from the date of petition till the date of realization;
2. That on such deposit, the petitioners are permitted to withdraw the said amount in the same manner and proportion as determined by the Tribunal;
3. That however, the petitioners shall pay the deficit court fee on the enhanced amount;
4. That the respondents are directed to deposit the said amount with interest after giving due credit to the amount already deposited, if any, within a period of two months from the date of receipt of a copy of this judgment; and
5. That there shall be no order as to costs in this appeal.

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Sd/- MOHD. ISMAIL
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Motor Accidents Claims Tribunal Cum-I-Additional Chief Judge, City Civil Court, at Secunderabad.
2. Two CD Copies

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HIGH COURT

DATED: 31/07/2024

DECREE

MACMA.No.1529 of 2015

PARTLY ALLOWING MACMA
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