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APHC010628412012

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3520]**
(Special Original Jurisdiction)

THURSDAY,THE EIGHTH DAY OF JANUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 724/2012

Between:

1. THE APSRTC, REP.BY MD, MUSHEERABAD, HYD, REP.BY ITS MANAGING DIRECTOR, MUSHEERABAD, HYDERABAD. REP.BY ITS REGIONAL MANAGER, ANANTAPUR.

...APPELLANT

AND

1. MEDA BHANU MANOJ AND 3 OTHERS, S/O MEDA KAILASH, MINOR R/O D.NO.8-174-2, BANAKAMADI STREET, TADIPATRI,
2. M LAKSHMI JAHNAVI, D/O MEDA KAILASH, MINOR, R1 AND R2 ARE REP.BY THEIR GRAND FATHER R/O D.NO.8-174-2, BANAKAMADI STREET, TADIPATRI,
3. M VENKATA SUBBAIAH, S/O M.VENKATA RAMAIAH R/O D.NO.8-174-2, BANAKAMADI STREET, TADIPATRI,
4. MEDA SUBHADRAMMA, W/O MEDA VENKATA SUBBAIAH R/O D.NO.8-174-2, BANAKAMADI STREET, TADIPATRI,

...RESPONDENT(S):

Appeal filed under Order 41 of CPC praying thet the Highcourt may be pleased toallow the appeal by setting aside the decree and judgment dated 2-12-2011 made in MVOP.no. 674 of 2009 on the file of the Chairman MACT cum Distirct Judge, Ananthapur

IA NO: 1 OF 2012(MACMAMP 1621 OF 2012

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 stay all further proceedings including the execution of the judgment and decree made in OP.no. 674 of 2009 dated 2-12-2011 on the file of the Chairman MACT cum Distirct Judge, Ananthapur

IA NO: 1 OF 2013(MACMAMP 747 OF 2013

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 vacate the stay granted in MACMA.MP.no. 1621 of 2012 in MACMA.No. 724 of 2012 dt, 10/04/2012 and permit the petitioner to withdraw the amount deposited by respondent / petitioner

Counsel for the Appellant:

1. SANISETTY VENKATESWARLU SC For APSRTC

Counsel for the Respondent(S):

1. INENI VENKATA PRASAD

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 2277/2013

Between:

1. MEDA BHANU MANOJ, S/O.MEDA KAILASH, MINOR R/O.D.NO.8-174-2, BANAKAMANDI STREET, TADIPATRI, ANANTAPUR DISTRICT.
2. M.LAKSHMI JAHNAVI, D/O.MEDA KAILASH, MINOR R/O.D.NO.8-174-2, BANAKAMANDI STREET, TADIPATRI, ANANTAPUR DISTRICT. [PETITIONERS 1 AND 2 ARE MINORS REP BY GUARDIAN, NEXT FRIEND GRAND FATHER P3
3. M.VENKATA SUBBAIAH, S/O.M.VENKATA RAMAIAH, HINDU

R/O.D.NO.8-174-2, BANAKAMANDI STREET, TADIPATRI, ANANTAPUR DISTRICT.

4. MEDA SUBHADRAMMA, W/O.MEDA VENKATA SUBBAIAH, HINDU R/O.D.NO.8-174-2, BANAKAMANDI STREET, TADIPATRI, ANANTAPUR DISTRICT.

...APPELLANT(S)

AND

1. THE AP STATE ROAD TRANSPORT CORPORATION, rep by its Managing Director O/o.Musheerabad, Hyderabad. rep by its Regional Manager O/o.Anantapur.

...RESPONDENT

Appeal filed under Order 41 of CPC praying thet the Highcourt may be pleased to

IA NO: 1 OF 2012(MACMAMP 8072 OF 2012

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 condone the delay of 237 days in filing the MACMA against the orders passed in and also

Counsel for the Appellant(S):

1. INENI VENKATA PRASAD

Counsel for the Respondent:

1. SANISETTY VENKATESWARLU SC For APSRTC

The Court made the following:

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

M.A.C.M.A.Nos.724 of 2012 & 2277 of 2013

COMMON JUDGMENT:

Introductory:

1. The claimants in O.P.No.674 of 2009 on the file of the Chairman, Motor Accident Claims Tribunal-cum-District Judge, Anantapur (for short "the learned MACT") are the appellants in M.A.C.M.A.No.2277 of 2013 and the respondent therein is the appellant in M.A.C.M.A.No.724 of 2012.

2. For the sake of convenience, the parties hereinafter referred to as the claimants and the respondent, as and how they are arrayed in the impugned order.

3. The claimants / appellants are questioning the adequacy and sufficiency of compensation of Rs.15,84,000/- awarded as against the claim made for Rs.40,00,000/-.

4. The respondent is disputing the compensation awarded as excessive, while denying the liability on the grounds of absence of negligence and non-joinder of necessary parties.

5. Since both the appeals arise out of the order dated 02.12.2011 in the same case, both appeals are heard and are being decided together.

Case of the claimants:

6(i). Claimant Nos.1 and 2 are children and claimant Nos.3 and 4 are father-in-law and mother-in-law of one Meda Venkata Supraja alias M. Supraja (hereinafter referred to as “the deceased”)

(ii). On 18.08.2008 at about 05:30 am, the deceased was proceeding in a car bearing No.AP 04 U 2444 with her husband to Tadipatri. When the car reached near Molakavemula Cross, A.P.S.R.T.C. bus bearing No.AP 28 Z 3390 (hereinafter referred to as “the offending vehicle”) came in the opposite direction from Anantapur in a rash and negligent manner, driven by its driver and dashed the car in which the deceased was travelling, whereby the accident occurred. The exclusive negligence of the driver of the offending vehicle is the cause for the accident. The driver of the car died on the spot. The deceased sustained severe injuries and succumbed to the injuries while undergoing treatment in the hospital.

(iii). A case in Crime No.42 of 2008 was registered for the offences under Sections 337 and 304-A of the IPC against the driver of the offending vehicle and he was subsequently charge sheeted.

(iv). The further case of the claimants is that the husband of the deceased died due to the depression following the death of deceased. Petitioner Nos.1 and 2

became orphans. Petitioner Nos.3 and 4 are taking care of petitioner Nos.1 and 2.

(v). Had the deceased been alive, she would have contributed her entire income to the family and for the maintenance of all the petitioners.

(vi). The further case of the claimants is that the deceased was very bright and brilliant. She was running business in the name and style of M/s. Jayalakshmi Fried Gram Industries, Tadipatri, at Door No.8-142-1, Bankamadi Street, Tadipatri and she was earning Rs.3,00,000/- per annum.

Case of the respondent:

7(i). The claimants shall strictly prove all the allegations as to accident, negligence of the driver of the offending vehicle, death of deceased due to the accident, age, occupation, income of the deceased and dependency of the claimants / petitioners etc.

(ii). It is claimed by the respondent that there was no negligence on the part of the driver of the offending vehicle and that the driver of the car alone was responsible for the accident. There was no valid driving license for the driver of the car. The petitioners ought to have added owner and the Insurance Company of the car as parties. The case was foisted against the driver of the offending vehicle with false allegations. The income of the deceased was not fortified with proper evidence. In any event, the respondent is not liable to pay any compensation.

8. On the strength of pleadings, the following issues were settled for trial by the learned MACT:

1) Whether the accident occurred on 18.08.2008 due to rash and negligent driving of the driver of APSRTC bus bearing No.AP 28 Z 3390 and caused death of the deceased?

2) Whether the petitioners are entitled for compensation and if so, to what amount and from which respondent?

3) To what relief?

9. Here itself, this Court finds it proper to observe that proper care is missing on the part on the learned MACT in framing the issues. Issues shall be framed with reference to assertions and denials. Taking note of the context of the case, when there is only one respondent, framing issue No.2 as to entitlement of the petitioners and from which respondent indicates a mechanical cut, copy and paste approach of the learned MACT and absence of proper care.

10. Further, the issue touching upon the non-joinder of the owner and Insurance Company of the car in which the deceased was travelling is missing, which ought to have been framed.

11. However, issue No.1 being a comprehensive one provides some scope for answering the contention as to contributory negligence of the driver of the car and consequently answering the necessity of adding the owner and Insurance

Company of the car. Although, Motor Accident Claims Tribunals can decide cases summarily, when issues are framed following CPC, there shall be proper attention in framing issues.

Evidence:

12. On behalf of the claimants, M. Venkata Subbaiah, claimant No.3 paternal grandfather of claimant Nos.1 and 2 was examined and he deposed about the relationship of the petitioners with the deceased, her age, occupation, income etc. and relied on the certified copies of documents Ex.A1-FIR, Ex.A2-Inquest report, Ex.A3-Post mortem certificate, Ex.A4-charge sheet, Ex.A5-MVI report, Ex.A6-original PAN Card of the deceased, Ex.A7 and Ex.A8 are the Income Tax returns Forms along with statement for The assessment years 2006-2007 and 2007-2008, Ex.A9-Cerrtifciate issued by Commercial Tax Officer-I, Tadipatri, Ex.A10-VAT Registration Certificate issued by the CTO, Tadipatri and Ex.A11- Notification of VAT Registration Certificate issued by CTO, Tadipatri.

13. Further, on behalf of the claimants one Besta Veerappa, an Eye Witness to the accident, was examined as P.W.2. and one V. Madhusudhana Reddy, Income Tax Consultant, Tadipatri, was examined as P.W.3, who asserted that the income of the deceased was Rs.3,70,932.80/- for the year 2006-2007 and Rs.4,47,193.27/- for the year 2007-2008.

14. On behalf of the respondent, the driver of the offending vehicle was examined as R.W.1. He has disowned the liability.

Findings of the learned MACT:

15. While referring to the certain judgments as to collision between two vehicles *vide* ***New India Assurance Co. Ltd., vs. B. Mallareddy[1], Perneti Nirmala vs. APSRTC[2] , National Insurance Co. Ltd., vs. Islavath Chinnmma[3]*** and ***National Insurance Co. Ltd. Vs. P. Murugan[4],*** the cases of collision between two vehicles and by referring to the crime record as well as the evidence of eye witness, learned MACT concluded that the driver of the A.P.S.R.T.C. bus was responsible for the accident.

16. While referring to the Income Tax returns and certain authorities, the learned MACT accepted the income of the deceased at Rs.1,30,500/- per annum and arrived at the contribution of the deceased to the claimants at Rs.87,000/-. Applied the multiplier '17' and found the loss of dependency at Rs.14,79,000/-. Thereafter, added Rs.50,000/- towards loss of love and affection, Rs.15,000/- towards loss of estate and Rs.5,000/- towards funeral expenditure. In all, quantified the compensation at Rs.15,84,000/-.

17. While observing that claimant Nos.3 and 4 are not dependents, the learned MACT apportioned a sum of Rs.67,000/- each to the shares of claimant Nos.3 and 4 as compensation, considering that claimant Nos.1 and 2 are under the

[1] 2002 (6) ALD 137 (DB)
[2] 2009 (5) ALT 781
[3] 2007 ACJ 1529
[4] 2009 ACJ 2411

custody of claimant Nos.3 and 4. A sum of Rs.6,50,000/- was apportioned to claimant No.1 and Rs.8,00,000/- was apportioned to claimant No.2.

Arguments in the appeal:

For the claimants:

18. When the Income Tax Returns are indicating the income of the deceased at more than Rs.3,00,000/-, taking income at Rs.1,30,500/- is not rational and awarding interest at the rate of 8% per annum is not correct.

On behalf of the respondent / A.P.S.R.T.C:

19. The defences of non-joinder of the owner and Insurance Company of the car are not properly addressed and the negligence of the car driver is completely ignored.

20. The compensation awarded under various heads is excessive.

21. Heard both sides. Perused the pleadings, evidence and observations of the learned MACT in the impugned order carefully.

22. Now the points that arise for determination in these appeals are:

1) Whether the negligence of the driver of the RTC bus / the offending vehicle is the cause for the accident and whether the issue touching the contribution of negligence by the driver of the car and the necessity of adding the owner and Insurance Company of the car are properly addressed by the learned MACT?

2) Whether the compensation of Rs.15,84,000/- awarded by the learned MACT is just, reasonable and adequate or require any modification either by way of enhancement or reduction?

3) What is the result of appeal in M.A.C.M.A.No.724 of 2012?

4) What is the result of appeal in M.A.C.M.A.No.2277 of 2013?

Point No.1:

23. Issue No.1 framed by the learned MACT is touching the aspect of negligence. The proceedings before the learned MACT are summary in nature. Following the CPC is not prohibited, but it can be to the extent of necessity. The issue framed since open-ended, it would cover both the exclusive negligence of the driver of the bus / the offending vehicle and also contribution of the driver of the car.

24. The evidence of P.W.2 / Bestha Veerappa, the eye witness is very clear that the driver of the car was driving very slowly and on the extreme left side of the road margin and the offending vehicle came in a rash and negligent manner with high speed, lost control over the same and dashed the car and that the driver of the car died on the spot.

25. P.W.2 stated that in the cross examination that he was in the field and watched the accident and he denied the negligence on the part of the car.

26. P.W.2 is arrayed as L.W.2 in the Ex.A4-charge sheet and from the markings of Ex.A4, it reflects that he was examined as P.W.1 before the concerned Criminal Court.

27. It is pertinent to note that the driver of the bus / offending vehicle, examined as R.W.1 admitted that Police registered a criminal case against him and his department placed him under suspension.

28. When the stand of the respondent A.P.S.R.T.C. is that there was no negligence on the part of the driver of the car, there cannot be suspension of the driver of the offending vehicle and departmental proceedings against him. The departmental proceedings and suspension against the driver, although independent, suggests that that the negligence is admitted by the respondent. If there is no negligence, there need not be departmental proceedings. If there are departmental proceedings, there will be negligence. The department cannot take the stand of absence of negligence for the purpose of defence in a motor accident claim in one voice and come out with another voice of negligence in a disciplinary proceedings against an employee. This is nothing short of blowing hot and cold at once and this paradox cannot be appreciated.

29. In the facts and circumstances of the case and on the material available on record, particularly in the absence of any evidence indicating the result of the criminal case or the result of the departmental proceedings, the respondent/

APSRTC cannot claim that there is absence of negligence on its part and that there was contribution of negligence by the driver of the car. What prevented the respondent from summoning either the Motor Vehicle Inspector to show the nature of damage to the vehicles or from examining any other eyewitnesses cited in the charge sheet is not even whispered. Therefore, the grounds urged as to either absence of negligence or the necessity of adding the owner and insurance Company of the car etc. are found fit for rejection.

30. In this context, it is also relevant to note that the appreciation of evidence in answering the question of fact as to negligence in a motor accident claim can be based on the official records and the theory of probability with a holistic approach. This approach stands fortified with the aid of provisions of Motor Vehicles Act and the Rules and also the observations of the Hon'ble Apex Court, as follows:

Statutory and Precedential Guidance:

Statutory Guidance:

31(i). It is relevant to note that the A.P. Motor Vehicles Rules, 1989 are applicable in deciding the cases by Motor Accidents Claims Tribunals and they are made in exercise of powers conferred under Section 176 of the Motor Vehicles Act which reads as follows:

> ***176. Power of State Government to make rules.—****A State Government may make rules for the purpose of carrying into effect*

the provisions of sections 165 to 174, and in particular, such rules may provide for all or any of the following matters, namely:—

(a) the form of application for claims for compensation and the particulars it may contain, and the fees, if any, to be paid in respect of such applications;

(b) the procedure to be followed by a Claims Tribunal in holding an inquiry under this Chapter;

(c) the powers vested in a Civil Court which may be exercised by a Claims Tribunal;

(d) the form and the manner in which and the fees (if any) on payment of which an appeal may be preferred against an award of a Claims Tribunal; and

(e) any other matter which is to be, or may be, prescribed.

(ii). Chapter '11' of the A.P. Motor Vehicles Rules, 1989 commencing from Rule 455 to Rule 476A deals with the powers of the Tribunal and all other allied aspects like form of application, registration, notice to parties, appearance and examination of parties, local inspection, summary examination of parties, method of recording evidence, adjournments, framing and determination of issues, judgments and enforcements of awards, Court fee relating to claim petitions applicability of Civil Procedure Code and the application for claim basis to award the claim by the claims tribunal. Rule 476 of the A.P. Motor Vehicles Rules, 1989 reads as follows:

Rule 476: Application for claim :-

(7) Basis to award the claim :- The Claims Tribunal shall proceed to award the claim on the basis of;-

(i) Registration Certificate of the Motor Vehicle involved in the accident;

(ii) Insurance Certificate or Policy relating to the insurance of the Motor Vehicle against the Third party risk;

(iii) Copy of First Information Report;

(iv) Post-mortem certificate or certificate of inquiry from the Medical Officer; and

(v) The nature of the treatment given by the Medical Officer who has examined the victim.

(7A) Specification of amount of compensation awarded by the Tribunal to each victim:- Where compensation is awarded to two or more persons, the Claims Tribunal shall also specify the amount payable to each of them.

32. As per Rule 476 of the A.P. Motor Vehicles Rules, 1989, the crime record can be the basis. The official acts done are presumed to be proper until a contrary is proved particularly when some statutory recognition is given to such official records.

33. It is relevant to note that in view of the summary nature and mode of enquiry contemplated under Motor Vehicles Act and social welfare nature of legislation the Tribunal shall have holistic view with reference to facts and circumstances of each case. It is sufficient if there is probability. The principle of standard of proof, beyond reasonable doubt cannot be applied while considering a claim seeking compensation for the death or the injury on account of road accident. The touch stone of the case, the claimants shall have to establish is

preponderance of probability only. The legal position to this extent is settled and consistent.

Precedential Guidance:

34(i). The Hon'ble Apex Court in ***Bimla Devi and others Vs. Himachal Road Transport Corporation***[5]***,*** in para 15 observed as follows:

> **"***15. In a situation of this nature, the Tribunal has rightly taken a holistic view of the matter. It was necessary to be borne in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied. For the said purpose, the High Court should have taken into consideration the respective stories set forth by both the parties.."*

(ii). In a case between ***Bhagwan Ram and Ors. Vs. Deen Dayal and Ors.***[6]***,*** while considering the nature of proof is required for believing the negligent driving in Motor Accident Claims, the Hon'ble High Court of Rajasthan found that Certificate and the copies of documents prepared by the Police on the spot, including the Challan, First Information Report etc. are admissible, even in the absence of statement of eye witnesses and the same can be the basis to believe the negligent driving of the driver of the offending vehicle, vide para-11 which reads as follows:

> *"11. The fact that any of the eye witness or the police personnel and authorities, who had prepared the documents - certified copies of challan*

[5] *2009 (13) SCC 530*
[6] *2013 (0) sc (Raj) 812*

Exhibit-1, First Information Report as Exhibit-2, Naksha Mauka as Exhibit-4, Halat Mauka as Exhibit-5, Postmortem Report as Exhibit-10 were not examined is of no consequence. The said documents being certified copies of public documents even in absence of such statements are admissible in evidence as held by this Court in the case of ***Rajasthan State Road Transport Corporation and Anr. v. Devilal & Ors.****, reported at 1991 ACJ 230 and* ***Shrwan Kumar v. Rajasthan State Road Transport Corporation & Ors.,*** *reported at 1995 ACJ 337. It was held by this Court in the case of* ***Shrwan Kumar*** *as under:-*

> *"18. Public documents like the first information report and the report of the mechanical inspection of the bus can be taken into consideration and this point is no longer res integra so far as this court is concerned. In Rajasthan State Road Transport Corporation v. Devilal, 1991 ACJ 230 (Rajasthan) , it was observed that strictly speaking, provisions of Evidence Act are not applicable before the Tribunal; if a document is a certified copy of a public document it need not be proved by calling a witness or the person who prepared it."*

(iii). In ***Anitha Sarma and Others Vs. New Indian Assurance Company Ltd***.[7], the Hon'ble Apex Court observed that in Motor Accident Claims, standard of proof required is the preponderance of possibilities but not beyond reasonable doubt; approach and role of the Courts, while examining the evidence in accident cases, ought not to be to find fault with non-examination of the best eye witnesses, as may happen in criminal Trial, but instead should be only to analyse the material placed on record by the parties to ascertain whether the claimant's version is more likely than not true. The observations in para-17 are as follows:-

[7] 2021(1) SCC 171

"*17.* *Unfortunately, the approach of the High Court was not sensitive enough to appreciate the turn of events at the spot, or the appellant-claimants' hardship in tracing witnesses and collecting information for an accident which took place many hundreds of kilometers away in an altogether different State. Close to the facts of the case in hand, this Court in* ***Parmeshwari v. Amir Chand [Parmeshwari v. Amir Chand, (2011****) 11 SCC 635 : (2011) 4 SCC (Civ) 828 : (2011) 3 SCC (Cri) 605] , viewed that : (SCC p. 638, para 12)*

"12. The other ground on which the High Court dismissed [Amir Chand v. Parmeshwari, 2009 SCC OnLine P&H 9302] the case was by way of disbelieving the testimony of Umed Singh, PW 1. Such disbelief of the High Court is totally conjectural. Umed Singh is not related to the appellant but as a good citizen, Umed Singh extended his help to the appellant by helping her to reach the doctor's chamber in order to ensure that an injured woman gets medical treatment. The evidence of Umed Singh cannot be disbelieved just because he did not file a complaint himself. We are constrained to repeat our observation that the total approach of the High Court, unfortunately, was not sensitized enough to appreciate the plight of the victim.

…

'15. In a situation of this nature, the Tribunal has rightly taken a holistic view of the matter. It was necessary to be borne in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied.'"

(iv). In a case between ***New India Assurance Company Ltd., Vs. Kethavarapu Sathyavathi and Ors*****.**[8]**,** the Hon'ble Division Bench of High Court of Andhra Pradesh has referred to Section 168, 169 of M.V. Act and Rule 476(7) of A.P. Motor Vehicles Rules and also catena of decisions. The point for

[8] 2009 Supreme (AP) 136=2010(2) ALD 403=2009(3) ALT 260

consideration before the Hon'ble Division Bench was that in holding an inquiry in terms of Motor Vehicles Act, what is the procedure to be followed and whether the F.I.R. can be basis for considering the claim. Observations in para 5 to 7 are as follows:

"5. Point:

Under Section 168 of the Motor Vehicles Act, 1988 (for short "the Act"), the Claims Tribunal shall give the parties an opportunity of being heard, hold an inquiry into the claim and make an award determining just compensation, etc. In holding any such inquiry, Section 169 of the Act mandates the Tribunal to follow such summary procedure as it thinks fit subject to rules. The Tribunal was conferred with the powers of a civil Court for the specified purposes and under Rule 476 of the Rules, the Claims Tribunal was directed to follow the procedure of summary trial as contained in the Code of Criminal Procedure, 1973. The Tribunal was cautioned not to reject any application on the ground of any technical flaw and was also obligated to obtain whatever information necessary from the police, medical and other authorities. It is true that sub-rule (7) of Rule 476 of the Rules states that the Claims Tribunal shall proceed to award the claim on the basis of registration certificate of the motor vehicle, insurance certificate or Policy, copy of first information report, post-mortem certificate or certificate of inquiry from the medical officer and the nature of treatment given by the medical Officer.

6. The said sub-rule obviously refers to the relevant dependable criteria for assessment of the compensation, which is patently illustrative and can never be considered to be exhaustive. This Sub-rule stating the basis to award the claim, is obviously subject to the prohibition against depending on any technical flaw and the procedure for summary trial to be followed by the Tribunal. The said sub-rule cannot travel beyond the statutory obligation imposed on the Tribunal to determine the just compensation after an inquiry,

in which an opportunity of being heard is given to the parties. The judicial determination of the questions in controversy before the Tribunal in terms of Sections 168 and 169 of the Act cannot be confined to consideration of the five documents referred to in sub-rule (7) of Rule 476 of the Rules alone and exclude any other oral or documentary evidence. The procedure of summary trial under the Code of Criminal Procedure which the Tribunal shall follow under Rule 476 of the Rules itself mandates taking all such evidence as may be produced by both sides in support of their respective versions, apart from the evidence which the Court, of its own motion, causes to be produced as per Section 262 read with Sections 254 and 255 of the said Code. Sub-rule (7) to be understood in the light of the object and scheme of the Act, is a directory provision referring to some of the documents which can offer guidance to the Tribunal in discharge of its statutory duty and the word "shall" used in the said: subrule has to be necessarily understood as "may".

7. That apart, to say that the, first information report alone should be the conclusive basis for determining the manner of the accident, even in spite of the availability of other dependable evidence on record on that aspect, will be offending the plain language of the statute and if that were the purport of sub-rule (7), it cannot be considered valid, as any such delegated legislation cannot travel beyond the legislation itself."

(v). In ***Dulcina Fernandes v. Joaquim Xavier Cruz***[9], the Hon'ble Apex Court observed in Para 7 to 9, as follows:-

*" **7.** It would hardly need a mention that the plea of negligence on the part of the first respondent who was driving the pick-up van as set up by the claimants was required to be decided by the learned Tribunal on the touchstone of preponderance of probabilities and certainly not on the basis of proof beyond reasonable doubt. (Bimla Devi v. Himachal RTC [(2009) 13 SCC 530]*

[9] *(2013) 10 SCC 646*

*8. In **United India Insurance Co. Ltd. v. Shila Datta** [(2011) 10 SCC 509 : (2012) 3 SCC (Civ) 798 : (2012) 1 SCC (Cri) 328] while considering the nature of a claim petition under the Motor Vehicles Act, 1988 a three-Judge Bench of this Court has culled out certain propositions of which Propositions (ii), (v) and (vi) would be relevant to the facts of the present case and, therefore, may be extracted hereinbelow : (SCC p. 518, para 10)*

> *"10. (ii) The rules of the pleadings do not strictly apply as the claimant is required to make an application in a form prescribed under the Act. In fact, there is no pleading where the proceedings are suo motu initiated by the Tribunal.*
>
> *…..*
>
> *(v) Though the Tribunal adjudicates on a claim and determines the compensation, it does not do so as in an adversarial litigation. …*
>
> *(vi) The Tribunal is required to follow such summary procedure as it thinks fit. It may choose one or more persons possessing special knowledge of and matters relevant to inquiry, to assist it in holding the enquiry."*

9. The following further observation available in para 10 of the Report would require specific note : (Shila Datta case [(2011) 10 SCC 509 : (2012) 3 SCC (Civ) 798 : (2012) 1 SCC (Cri) 328] , SCC p. 519)

> *"10. … We have referred to the aforesaid provisions to show that an award by the Tribunal cannot be seen as an adversarial adjudication between the litigating parties to a dispute, but a statutory determination of compensation on the occurrence of an accident, after due enquiry, in accordance with the statute."*

35. In view of the discussion made above, point No.1 is answered against the respondent A.P.S.R.T.C. and in favour of the claimants, concluding that the findings of the learned MACT as to negligence on the part of the driver of the RTC bus are proper and do not require any interference.

Point No.2:

Precedential guidance:

36(i). For having uniformity of practice and consistency in awarding just compensation, the Hon'ble Apex Court provided guidelines as to adoption of multiplier depending on the age of the deceased in ***Sarla Verma (Smt.) and Ors. Vs. Delhi Transport Corporation and Anr.***[10] and also the method of calculation as to ascertaining multiplicand, applying multiplier and calculating the compensation *vide* paragraph Nos.18 and 19 of the Judgment.

(ii). Further the Hon'ble Apex Court in ***National Insurance Company Ltd. v. Pranay Sethi and Others***[11] case directed for adding future prospects at 50% in respect of permanent employment where the deceased is below 40 years, 30% where deceased is between 40-50 years and 15% where the deceased is between 50-60 years. Further, in respect of self employed etc., recommended addition of income at 40% for the deceased below 40 years, at 25% where the deceased is between 40-50 years and at 10% where the deceased is between 50-60 years. Further, awarding compensation under conventional heads like loss of estate, loss of consortium and funeral expenditure at Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively is also provided in the same Judgment.

[10] 2009 (6) SCC 121
[11] 2017(16) SCC 680

(iii). Further in ***Magma General Insurance Company Ltd. v. Nanu Ram and Others***[12], the Hon'ble Apex Court observed that the compensation under the head of loss of consortium can be awarded not only to the spouse but also to the children and parents of the deceased under the heads of parental consortium and filial consortium.

Just Compensation:

37. In ***Rajesh and others vs. Rajbir Singh and others***[13], the Hon'ble Supreme Court in para Nos.10 and 11 made relevant observations, they are as follows:

> ***10.*** *Whether the Tribunal is competent to award compensation in excess of what is claimed in the application under Section 166 of the Motor Vehicles Act, 1988, is another issue arising for consideration in this case. At para 10 of Nagappa case [Nagappa v. Gurudayal Singh, (2003) 2 SCC 274 : 2003 SCC (Cri) 523 : AIR 2003 SC 674] , it was held as follows: (SCC p. 280)*
>
> *"10. Thereafter, Section 168 empowers the Claims Tribunal to 'make an award determining the amount of compensation which appears to it to be just'. Therefore, the only requirement for determining the compensation is that it must be 'just'. There is no other limitation or restriction on its power for awarding just compensation."*
>
> *The principle was followed in the later decisions in Oriental Insurance Co. Ltd. v. Mohd. Nasir [(2009) 6 SCC 280 : (2009) 2 SCC (Civ) 877 : (2009) 2 SCC (Cri) 987] and in Ningamma v. United India Insurance Co. Ltd. [(2009) 13 SCC 710 : (2009) 5 SCC (Civ) 241 : (2010) 1 SCC (Cri) 1213]*

[12] (2018) 18 SCC 130
[13] (2013) 9 SCC 54

> ***11.*** *Underlying principle discussed in the above decisions is with regard to the duty of the court to fix a just compensation and it has now become settled law that the court should not succumb to niceties or technicalities, in such matters. Attempt of the court should be to equate, as far as possible, the misery on account of the accident with the compensation so that the injured/the dependants should not face the vagaries of life on account of the discontinuance of the income earned by the victim.*

38(i). With regard to the income of the deceased, the claimants relied on the evidence of P.W.3. He has stated that the deceased Meda Venkata Supraja alias M. Supraja was running M/s. Jaya Lakshmi Fried Gram Industries at Tadipatri Town. He has submitted the accounts to Income Tax Department relating to her factory.

(ii). She was regularly paying income tax to the department. She was an Income Tax Assessee, her PAN number is AYJPS 3818 F. As per the balance sheet, the income of the deceased for the year 2006-2007 is Rs.3,70,932.80/- and for the year 2007-2008 is Rs.4,47,193.27/-. Ex.A7 and Ex.A8 are the Income Tax returns.

(iii). The cross-examination of P.W.3 is as follows:

> *Statement under Ex.A7 is prepared for the purpose of tax payment. Since 2004, the deceased was paying tax. It is not true to suggest that for the financial year 2006-07 only I filed the income tax returns of the deceased. After allowing depreciations, no tax was paid by the deceased as per Ex.A7. After allowing the depreciation, no tax was paid by the deceased for the financial year 2006-07. No returns were*

filed by the deceased for the financial year 2007-08. It is not true to suggest that I prepared Ex.A7 in order to help the petitioners and that I am deposing false.

39. As per the Ex.A7 no tax is paid. Payment of tax is different and earning of income is different. If the income does not fall within the limits the taxable limits, one may not be required to pay tax. In Annexure-I of Ex.A7, the gross profit is shown as Rs.13,74,703.50/-. In Ex.A8, gross annual income is shown as Rs.1,30,500/-.

40. Leaned MACT has accepted the income of the deceased at Rs.1,30,500/- on the strength of Ex.A7 considering the net profit of the assessment year 2007-2008 as Rs.1,33,500/-. However, in view of the age of the deceased being '26' years, adding income towards future prospects should have been considered, in the light of authoritative pronouncements holding that there can be progression in income.

41. In the facts and circumstances of the case, there can be addition to a tune of 30%, whereby the income of the deceased can be accepted at around Rs.1,70,000/- per annum. 1/3rd can be deducted towards personal expenditure. Then, the contribution of the deceased comes to Rs.1,13,334/-. The multiplier applicable is '17'. Upon application of the same, loss of dependency comes to Rs.19,26,678/-(Rs.1,13,334/-x17), which is rounded off to around Rs.19,27,000/-. Therefore, under the head of loss of dependency, the entitlement of claimants accepted at Rs.19,27,000/-.

42. Further, the claimants are entitled for compensation under the conventional heads i.e. Rs.40,000/- each to claimant Nos.1 and 2 towards parental consortium, Rs.15,000/- towards funeral expenditure and Rs.15,000/- towards loss of estate.

43. Claimant Nos.3 and 4, the father-in-law and mother-in-law of the deceased, though not direct dependents, in view of their son and the deceased being their daughter-in-law and they are living together, reasonable dependency of claimant no.3 and 4 can be accepted, considering the nature of legislation and the principles under the Fatal Accidents Act, wherein dependency is also a relevant factor apart from claimants being the legal heirs. Therefore, the entitlement of claimant Nos.3 and 4 is fixed at Rs.1,00,000/- each.

44. In view of the reasons and evidence referred above, the entitlement of the claimants for reasonable compensation in comparison to the compensation awarded by the learned MACT is found as follows:

Head		***Compensation awarded by the learned MACT***	***Fixed by this Court***
(i)	Loss of dependency	Rs.14,79,000/-	Rs.19,27,000/-
(ii)	Loss of estate	Rs.50,000/-	Rs.15,000/-
(iii)	Loss of Consortium	-Nil-	Rs.80,000/- **@ Rs.40,000/- each to claimant Nos.1 and 2**
(iv)	Funeral expenses	Rs.5,000/-	Rs.15,000/-
(v)	Love and affection	Rs.50,000/-	-Nil-
	Total compensation awarded	**Rs.15,84,000/-**	**Rs.20,37,000/-**
	Interest (per annum)	8%	9%

45. For the reasons aforesaid and in view of the discussion made above, the point No.2 framed is answered concluding that the claimants are entitled for compensation of Rs.20,37,000/- with interest at the rate of 9% per annum from the date of petition till the date of realization and the order and decree dated 02.12.2011 passed by the learned MACT in O.P.No.674 of 2009 require modification accordingly.

Point No.3:

M.A.C.M.A.No.724 of 2012:

Result:

46. In view of the discussion and conclusions drawn under point No.2, the appeal filed by the A.P.S.R.T.C. *vide* M.A.C.M.A.No.724 of 2012 is fit to be dismissed. Accordingly, M.A.C.M.A.No.724 of 2012 is dismissed. There shall be no order as to costs.

Point No.4:

47. For the aforesaid reasons and in view of the conclusions drawn under point Nos.1 to 3, Point No.4 is answered as follows:

In the result,

M.A.C.M.A.No.2277 of 2013:

(i) M.A.C.M.A.No.2277 of 2013 filed by the claimants is partly allowed.

(ii) Compensation awarded by the learned MACT in O.P.No.674 of 2009 at Rs.15,84,000/- with interest at the rate of 8% per annum is modified and enhanced to Rs.20,37,000/- with interest at the rate of 9% per annum from the date of petition till the date of realization.

(iii) **Apportionment:**

(a) Claimant No.1 / son of the deceased is entitled to Rs.9,00,000/- with proportionate interests and costs.

(b) Claimant Nos.2 / daughter of the deceased is entitled to Rs.9,37,000/- with proportionate interest and costs.

(c) Claimant No.3 / Father-in-law of the deceased is entitled to Rs.1,00,000/- with proportionate interest.

(d) Claimant No.4 / Mother-in-law of the deceased is entitled to Rs.1,00,000/- with proportionate interest.

(e) In the context of long lapse of time from 2009 till date, it is clarified that if either of claimant Nos.3 and 4 is not surviving, the amounts apportioned to their shares shall be paid to survivor among them; and if both of them are not surviving, the same shall be paid to claimant Nos.1 and 2 equally.

(iv) Respondent before the learned MACT / A.P.S.R.T.C is liable to pay the compensation.

(v) Time for payment /deposit of balance amount is two months.

(a) If the claimants furnish the bank account number within 15 days from today, the respondent / A.P.S.R.T.C. shall deposit the amount directly into the bank account of the claimants and file the necessary proof before the learned MACT.

(b) If the claimants fail to comply v(a) above, the respondent / A.P.S.R.T.C. shall deposit the amount before the learned MACT and the claimants are entitled to withdraw the amount at once on deposit.

(vi) There shall be no order as to costs, in the appeal.

48. As a sequel, miscellaneous petitions, if any, pending in these appeals shall stand closed.

A. HARI HARANADHA SARMA, J

Date:08.01.2026
Note: L.R. copy to be marked.
(B/o).
Knr

HON'BLE SRI JUSTICE A. HARI HARANADHA SARMA

M.A.C.M.A.Nos.724 of 2012 & 2277 of 2013

08.01.2026

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