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Judgment pronounced on : 08.01.2026
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APHC010640062012



[3520]

**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(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: 3601/2012

Between:

1.M/S.UNITED INDIA INSURANCE CO LTD, REP BY ITS DIVISIONAL
MANAGER O/O.KURNOOL BRANCH, KURNOOL. **...APPELLANT**

AND

- 1.K SUBBALAKSHMAMMA 04 ORS, W/O.LATE BALA SUBRAMANYAM,
HINDU, OCC: HOUSEWIFE R/O.H.NO.29/2007-A, SBI COLONY,
NANDYAL, KURNOOL DISTRICT.
- 2.K SRI RAM, S/O.LATE BALA SUBRAMANYAM, HINDU, OCC: PVT
EMPLOYEE R/O.H.NO.29/2007-A, SBI COLONY, NANDYAL, KURNOOL
DISTRICT.
- 3.K SEETHAMALAKSHMI, D/O.LATE BALA SUBRAMANYAM, HINDU
R/O.H.NO.29/2007-A, SBI COLONY, NANDYAL, KURNOOL DISTRICT.
- 4.K ANANTHALAKSHMI, D/O.LATE BALA SUBRAMANYAM, HINDU
R/O.H.NO.29/2007-A, SBI COLONY, NANDYAL, KURNOOL DISTRICT.
- 5.K PARDHASARATHI REDDY, S/O.VENU MURALIDHAR REDDY, AGED:
MAJOR OWNER OF TATA SUMO BEARING NO.AP 04 A 6633
R/O.THOGADCHEEDU [V], PANYAM MANDAL, KURNOOL DISTRICT -
518 112.

...Respondent(S):

Appeal filed under Order 41 of CPC praying that the High court may be pleased to

IA NO: 1 OF 2012(MACMAMP 7318 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 18 days in representation of MACMASR No.43855/2012 filed against decree dated 03.07.2012 passed in OP No.216/2011 on the file of MACT cum III Addl. District Judge, Kurnool District at Nandyal

IA NO: 2 OF 2012(MACMAMP 7601 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 to grant stay of execution of the decree including all further proceedings in OP No. 216 of 2011 passed on 3-7-2012 on the file of III Additional District Judge-Cum-Motor Accident Clams Tribunal, Kurnool at Nandyal and to pass

IA NO: 1 OF 2013(MACMAMP 1369 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 interim stay passed in MACMA.MP.No. 7601 of 2012 in MACMA.No. 3601 of 2012 dt. 04/12/2012

Counsel for the Appellant:

1. SRINIVASA RAO KATAKAMSETTY

Counsel for the Respondent(S):

1. A JAYA SANKARA REDDY

2. K NAGA PHANINDRA

The Court made the following:

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA**M.A.C.M.A.No.3601 of 2012****JUDGMENT:**

The 2nd respondent in M.V.O.P.No.216 of 2011 questioning the liability and the quantum of compensation awarded under order and decree dated 03.07.2012 passed by the Motor Accidents Claims Tribunal – cum- III Additional District Judge, Kurnool at Nandyal [*for short 'MACT'*] filed the present appeal.

2. Respondents 1 to 4 herein are the claimants and the respondent No.5 herein is the owner of the offending vehicle, arrayed as respondent No.1 before the learned MACT.

3. For the sake of convenience, the parties will be hereinafter referred to as the claimants and the respondents, as and how they are arrayed before the learned MACT.

The case of the claimants:—

4. [i] One Bala Subrahmanyam [*hereinafter referred as 'the deceased'*] is the husband of the claimant No.1 and father of claimants No.2 to 4. On the fateful day i.e., on 16.01.2010, the deceased while returning on his motor cycle after attending duty, at about 7.30 p.m. near Shakti Petrol bunk, Nandyal within

the limits of Nandyal Taluk Police Station, one TATA Sumo vehicle bearing No.AP 04 A 6633 [for short 'the offending vehicle'] came in opposite direction in a rash and negligent manner and dashed the motor cycle, causing the accident and instantaneous death of the deceased.

[ii] A case in Crime No.09 of 2010 for the offence under Section 304-A IPC was registered against the driver of the offending vehicle and charge sheeted was also laid.

[iii] The accident was occurred due to rash and negligent driving of the driver of the offending vehicle, employed by the 1st respondent and the vehicle was insured with the 2nd respondent. Therefore, the respondents are liable to pay compensation.

[iv] The deceased was working as Development Officer, Grade-I in Union India Insurance Company Ltd./2nd respondent and was drawing a salary of Rs.38,282/- per month. The sudden death of the deceased made the claimants as orphans and they deserve reasonable compensation of Rs.30,00,000/-.

5. The respondent No.1 is the owner of the offending vehicle, remained *ex parte*.

The case of the 2nd respondent-Insurance Company/appellant :-

6. There was no negligence on the part of the offending vehicle, said driver did not possess valid and effective driving license and the 2nd respondent is not liable to pay any compensation.

Findings of the learned MACT:-

7. [i] Learned MACT considering the evidence of eye witnesses and documents covered by Exs.A1 to A5, believed the negligence of the driver of the offending vehicle, while discarding the evidence of RW.1 on the ground that he is not an eye witness to the accident.

[ii] While imposing the liability, learned MACT found that the absence of driving of license to the driver of the offending vehicle is not proved by the Insurance Company and no other violations are shown.

[iii] While quantifying the compensation, considered the net salary of the deceased as Rs.26,307/- per month with reference to Ex.X1-Salary Certificate and after deducting 1/3rd towards personal expenditure, taken the contribution @Rs.17,538/-; adopted multiplier '11' and awarded a compensation of Rs.23,30,016/-.

[iv] Learned MACT considering that claimant Nos.2 to 4 are not dependents, allowed the claim against the claimant No.1 alone. However, it was also observed that the death benefits are received and pension is also drawn for a sum of Rs.10,944/- by the claimant No.1.

Arguments in the appeal :-

For the appellants:-

8. [i] Ex.A1-FIR revealed that there is an unknown vehicle. Therefore, the involvement of the offending vehicle TATA Sumo bearing No.AP 04 A 6633 cannot be believed. The person, who gave the complaint under Ex.A1, brother of the deceased is not an eye witness; PW.2 said to be an eye witness did not give report to Police, therefore, Ex.A1 [FIR] and the evidence of PW.2 cannot be considered.

[ii]. The Income Tax should have been deducted while calculating the income @ Rs.26,307/-.

[iii] Learned MACT ought to have considered the death benefits received by the claimant No.1 for a sum of Rs.24,02,210/- and pension @Rs.10,944/- per month.

[iv] The deceased should have been retired at the age of 58years, had he been alive. Therefore, the application of multiplier '11' is not correct.

For the claimants:-

9. [i] Investigation was done and charge sheet was also filed against the driver of the offending vehicle by the Police. The presumption as to creditworthiness of the FIR, charge sheet can be drawn in favour of the claimants.

[ii] Getting pension and receiving of death benefits is no bar for awarding compensation. The Tribunal ought to have added future prospects and awarded more compensation.

[iii] Tribunal should have awarded compensation under the heads of loss of consortium, loss of estate and funeral expenditure, in accordance with the settled law and practice and compensation granted require modification accordingly.

10. Perused the evidence on record.

11. Thoughtful consideration is given to the arguments advanced by the both sides.

12. The points that arise for determination in this appeal are that -

- 1) Whether the accident and its occurrence due to the negligence of the driver of the offending vehicle/ TATA Sumo bearing No. AP 04 A 6633 is proved?
- 2) Whether the compensation of Rs.20,30,016/- awarded by the learned MACT under the impugned order and decree dated 03.07.2012 in M.V.O.P.No.216 of 2011 is just, reasonable, and adequate? Or require any modification either by way of enhancement or reduction? If so, to what tune?
- 3) What is the result of the appeal?

Points No.1 :

13. [i] Date and time of the accident are 16.01.2010 at 7.30 p.m., the registration of FIR is on 16.01.2010 and it was registered at 21.00hrs; the FIR and the report enclosed to the FIR, are indicating that unknown vehicle hit the motor cycle on which the deceased was travelling.

[ii] Ex.A2-Inquest report was indicating that inquest was conducted on 17.01.2010 from 8.00 a.m. onwards. In Col.No.3 of inquest report-Ex.A2, it is mentioned that the crime vehicle is TATA Sumo and its driver has driven the same in a rash and negligent manner. Col.No.15 of Ex.A2 indicates the reason for the death etc., number of the crime vehicle is also mentioned as AP 04 A 6633. Therefore, the doubt projected by the appellant-Insurance Company that the offending vehicle is planted, merits no consideration. There is no much delay in mentioning details of the vehicle.

[iii] Further, the M.V.A. report - Ex.A4 is also indicating the involvement of the Crime Vehicle in the accident. Added to all these things, the statements of the witnesses cited in the charge sheet-Ex.A5 are the basis for fixing the culpability on the part of the driver of the TAT Sumo /offending vehicle.

[iv] Further it is relevant to note that PW.2, K.Brahma Reddy is an eye witness to the accident. He is cited as LW.3 in the charge sheet -Ex.A5. His evidence is clear and categorical. It is also relevant to note that he has informed

the brother of the deceased about the occurrence of the accident and in turn the brother of the deceased gave report to the police under Ex.A1. During the cross-examination of PW.2/eye witness, at least suggestion theory was not adopted disputing the involvement of the offending vehicle viz., TATA Sumo. Only suggestion given was that the driver of the offending vehicle did not possess the driving license.

[v] When the evidence covered by Ex.A1-FIR, EX.A2-inquest, Ex.A4-M.V.I. report and Ex.A5-charge sheet are seen in conjunction with the evidence of PW.2, the excuse pressed by the appellant -Insurance Company that the offending vehicle TATA Sumo did not involve in the accident, found fit to be ignored as it is a lame and baseless excuse, so the appellant -Insurance company cannot be exonerated from the liability.

14. Here in this context, to fortify the above conclusion, it is found proper to note the statutory and precedential guidance in respect of appreciating occurrence and the issue of negligence, in motor accident claims which are as follows:-

Statutory Guidance:

15. (i). As per Section 176 of the Motor Vehicles Act, the State Governments are entitled to make rules for the purpose of carrying effect to the provisions of the Motor Vehicles Act.

(ii). In relation to claims before the learned MACT, Rule 455 to Rule 476 of the A.P. Motor Vehicles Rules, 1989, vide Chapter No.11 provides comprehensive guidance. As per Rule 476 of the A.P. Motor Vehicles Rules, 1989, the claims Tribunal shall proceed to award the claim basing on the registration certificate of the vehicle, insurance policy, copy of FIR and Post-mortem certificate etc.

Precedential Guidance:

16. The Hon'ble Apex Court in ***Bimla Devi and others Vs. Himachal Road Transport Corporation***¹, 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..”

17. It is relevant to refer the judgment passed by the Division Bench of this Court, wherein I am one of the members, in a case between ***Pepakayala Nagaratnam and Ors. Vs. N.Raghunadha and 2 Ors.***² vide MACMA No.3020 of 2016, considered several aspects of appreciating and relying on the record

¹ 2009 (13) SCC 530

² 2025 SCC Online AP 2656

submitted by Police and standard of proof vide observations at para 16 to 18 of the judgment, which reads as follows:-

“16. In a case between **Bhagwan Ram and Ors. Vs. Deen Dayal and Ors.**³, 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 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."

³ 2013 (0) Sc (Raj) 812

17. In **Anitha Sarma and Others Vs. New Indian Assurance Company Ltd.**⁴, the Honble Apex Court observed that in Motor Accident Claims, standard of proof is one of the preponderance of possibilities render 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 analyze 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:-

*“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.”

⁴ 2021(1) SCC 171

18. In a case between **New India Assurance Company Ltd., Vs. Kethavarapu Sathyavathi and Ors.**⁵, 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 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

⁵ 2009 Supreme (AP) 136=2010(2) ALD 403=2009(3) ALT 260

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."

18. For all the aforesaid reasons, point No.1 is answered against the appellant and in favour of the claimants concluding that the accident and its occurrence is due to negligence of the driver of the offending vehicle - TATA sumo bearing No.AP 04 A 6633 is proved.

Point No.2:-

19. The first fold of objection of the appellant/Insurance Company is that death benefits are received by the claimants and claimant No.1 is receiving pension. Therefore, the quantum of compensation awarded is excessive.

20. The Hon'ble Apex Court in a case between **Helen C Rebello (MRs.) and Others And Maharashtra State Road Transport Corporation and Another**⁶, considering the objection as to receiving of Provident Fund etc., viz. other pecuniary advantages, while computing the compensation payable in terms of Motor Vehicles Act, relevant observations are made in paragraphs 31 to 35 of the judgment, which are as follows:-

“31. Submission by the learned counsel for the appellants is that the insurance money is by virtue of a contractual relationship between the deceased and the insurance company and is payable to the legal heirs of the deceased in terms of the contract. Such money cannot be said to have been received by the heirs only on account of the death of the deceased, but truly it is a fruit of the premium paid by the deceased during his lifetime. The deceased bought this insurance policy as an act of his prudence, to confer benefit either on himself or on his heirs in case of death. This amount is receivable by the claimant irrespective of accidental death, even if he would have died a natural death. He further submits that the interpretation given by the High Court confers benefit on the tortfeasor for his negligence and wrong leading to untimely death without any contribution by him. It permits him to escape from the liability cast by the statute. Thus, his submission is that any amount payable under any contract of social assurance or any insurance, ought not to be deducted as the same is payable to the heirs because of the contract and not on account of the death of the insured person. Referring to the dictionary meaning of the word “compensation”, he submits it would mean anything given to make things equal in value. He submits that in this case the death of the deceased-husband of the claimant which was due to the negligence of the respondents has to be offset by a just equivalent, where the claimants are put back in a position where they would have been but for such death. On this, he draws the conclusion that the benefits of the insurance policy cannot be deducted while awarding the compensation. On the other hand, learned counsel for the respondents restricted the argument as was

⁶ (1999) 1 SCC 90

advanced before the High Court and submitted that the High Court, after considering all aspects including English decisions and the decisions of this Court, rightly concluded to deduct the life insurance money out of the compensation payable to the claimant.

32. So far as the general principle of estimating damages under the common law is concerned, it is settled that the pecuniary loss can be ascertained only by balancing on one hand, the loss to the claimant of the future pecuniary benefits that would have accrued to him but for the death with the “pecuniary advantage” which from whatever source comes to him by reason of the death. In other words, it is the balancing of loss and gain of the claimant occasioned by the death. But this has to change its colour to the extent a statute intends to do. Thus, this has to be interpreted in the light of the provisions of the Motor Vehicles Act, 1939. It is very clear, to which there could be no doubt that this Act delivers compensation to the claimant only on account of accidental injury or death, not on account of any other death. Thus, the pecuniary advantage accruing under this Act has to be deciphered, correlating with the accidental death. The compensation payable under the Motor Vehicles Act is on account of the pecuniary loss to the claimant by accidental injury or death and not other forms of death. If there is natural death or death by suicide, serious illness, including even death by accident, through train, air flight not involving a motor vehicle, it would not be covered under the Motor Vehicles Act. Thus, the application of the general principle under the common law of loss and gain for the computation of compensation under this Act must correlate to this type of injury or death, viz., accidental. If the words “pecuniary advantage” from whatever source are to be interpreted to mean any form of death under this Act, it would dilute all possible benefits conferred on the claimant and would be contrary to the spirit of the law. If the “pecuniary advantage” resulting from death means pecuniary advantage coming under all forms of death then it will include all the assets moveable, immovable, shares, bank accounts, cash and every amount receivable under any contract. In other words, all heritable assets including what is willed by the deceased etc. This would obliterate both, all possible conferment of economic security to the claimant by the deceased and the intentions of the legislature. By such an interpretation, the tortfeasor in spite of his wrongful act or negligence, which contributes to the death, would have in many cases no liability or meagre liability. In

our considered opinion, the general principle of loss and gain takes colour of this statute, viz., the gain has to be interpreted which is as a result of the accidental death and the loss on account of the accidental death. Thus, under the present Act, whatever pecuniary advantage is received by the claimant, from whatever source, would only mean which comes to the claimant on account of the accidental death and not other forms of death. The constitution of the Motor Accident Claims Tribunal itself under Section 110 is, as the section states:

“... for the purpose of adjudicating upon claims for compensation in respect of accidents involving the death of, or bodily injury to, ...”.

33. Thus, it would not include that which the claimant receives on account of other forms of deaths, which he would have received even apart from accidental death. Thus, such pecuniary advantage would have no correlation to the accidental death for which compensation is computed. Any amount received or receivable not only on account of the accidental death but that which would have come to the claimant even otherwise, could not be construed to be the “pecuniary advantage”, liable for deduction. However, where the employer insures his employee, as against injury or death arising out of an accident, any amount received out of such insurance on the happening of such incident may be an amount liable for deduction. However, our legislature has taken note of such contingency through the proviso of Section 95. Under it the liability of the insurer is excluded in respect of injury or death, arising out of and in the course of employment of an employee.

34. This is based on the principle that the claimant for the happening of the same incidence may not gain twice from two sources. This, it is excluded thus, either through the wisdom of the legislature or through the principle of loss and gain through deduction not to give gain to the claimant twice arising from the same transaction, viz., the same accident. It is significant to record here in both the sources, viz., either under the Motor Vehicles Act or from the employer, the compensation receivable by the claimant is either statutory or through the security of the employer securing for his employee but in both cases he receives the amount without his contribution. How thus an amount earned out of one's labour or contribution towards one's wealth, savings, etc. either for himself or for his family which such person knows under the law has to go to his heirs after his death either

by succession or under a Will could be said to be the “pecuniary gain” only on account of one's accidental death. This, of course, is a pecuniary gain but how this is equitable or could be balanced out of the amount to be received as compensation under the Motor Vehicles Act. There is no correlation between the two amounts. Not even remotely. How can an amount of loss and gain of one contract be made applicable to the loss and gain of another contract. Similarly, how an amount receivable under a statute has any correlation with an amount earned by an individual. Principle of loss and gain has to be on the same plane within the same sphere, of course, subject to the contract to the contrary or any provisions of law.

35. Broadly, we may examine the receipt of the provident fund which is a deferred payment out of the contribution made by an employee during the tenure of his service. Such employee or his heirs are entitled to receive this amount irrespective of the accidental death. This amount is secured, is certain to be received, while the amount under the Motor Vehicles Act is uncertain and is receivable only on the happening of the event, viz., accident, which may not take place at all. Similarly, family pension is also earned by an employee for the benefit of his family in the form of his contribution in the service in terms of the service conditions receivable by the heirs after his death. The heirs receive family pension even otherwise than the accidental death. No correlation between the two. Similarly, life insurance policy is received either by the insured or the heirs of the insured on account of the contract with the insurer, for which the insured contributes in the form of premium. It is receivable even by the insured if he lives till maturity after paying all the premiums. In the case of death, the insurer indemnifies to pay the sum to the heirs, again in terms of the contract for the premium paid. Again, this amount is receivable by the claimant not on account of any accidental death but otherwise on the insured's death. Death is only a step or contingency in terms of the contract, to receive the amount. Similarly any cash, bank balance, shares, fixed deposits, etc. though are all a pecuniary advantage receivable by the heirs on account of one's death but all these have no correlation with the amount receivable under a statute occasioned only on account of accidental death. How could such an amount come within the periphery of the Motor Vehicles Act to be termed as “pecuniary advantage” liable for deduction. When we seek the principle of loss and gain, it has to be on a similar and

same plane having nexus, inter se, between them and not to which there is no semblance of any correlation. The insured (deceased) contributes his own money for which he receives the amount which has no correlation to the compensation computed as against the tortfeasor for his negligence on account of the accident. As aforesaid, the amount receivable as compensation under the Act is on account of the injury or death without making any contribution towards it, then how can the fruits of an amount received through contributions of the insured be deducted out of the amount receivable under the Motor Vehicles Act. The amount under this Act he receives without any contribution. As we have said, the compensation payable under the Motor Vehicles Act is statutory while the amount receivable under the life insurance policy is contractual.

21. In view of the above authority, the objection of the Insurance Company that death benefits and pension are paid to claimant No.1, found not tenable, for the simple reason that the entitlement for pension or death benefits would happen in any other kind of demise of the deceased other than the accident referred in this case. Pecuniary benefit received is not directly related to the accident referred in the case. Therefore, counting the same for reducing the compensation payable does not arise.

Quantum of Compensation:

Precedential guidance:

22. (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.⁷ 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***⁸ 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.

(iii). Further in ***Magma General Insurance Company Ltd. v. Nanu Ram and Others***⁹, 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.

⁷ 2009 (6) SCC 121

⁸ 2017(16) SCC 680

⁹ (2018) 18 SCC 130

23. In view of the precedential guidance referred above, more particularly on consideration of evidence on record, this Court find that monthly income at Rs.26,307/- taken by the learned MACT for the deceased is proper. The age of the deceased as per the inquest and Post Mortem is '47' years. The income of the deceased as per the evidence of PW.3 is Rs.26,307/- and he was not cross-examined. Ex.X1 is the Salary Certificate and Ex.X2 is the Pay Slip and Ex.X3 is the Form -16. Even as per Ex.X3-From No.16, which is after deducting of the income tax, the annual income is Rs.3,91,000/-. Adding future prospects to an extent of 25% is permissible since the deceased is between 40-50 years. Therefore, to the income shown at Rs.26,307/-, there can be addition by 25% whereby the income comes to Rs.32,883.75/-, which comes to Rs.3,94,605/- p.a.. After deducting 1/3rd of the same, towards annual contribution of the deceased to the family, comes to [Rs.3,94,605-1,31,535/-] = Rs.2,63,070/-. For the age group of '47' multiplier applicable as per the **Sarla Verma's case** is '13', then the entitlement comes to Rs.34,19,910/-.

[ii] However, the claimants are entitled for Rs.40,000/- each under the head of loss of consortium and under the heads of funeral expenses and loss of estate Rs.15,000/- each.

[iii] Although the dependency is not there for claimant Nos.2 to 4, they are entitled for reasonable amounts apart from the head of loss of parental

consortium. Therefore, Rs.1,00,000/- is apportioned to their shares, which would be inclusive of loss of parental consortium.

24. Therefore, the entitlement of the claimants for compensation in comparison to the award made by the Tribunal is as follows:-

Head		Compensation awarded by the MACT	Fixed by this Court
(i)	Loss of Dependency	Rs.23,15,016 /-	Rs.34,19,910 /-
(ii)	Loss of Consortium	Rs.10,000/- [for the 1 st claimant only]	Rs.1,60,000/- [@ 40,000/-each entitled for the 4 claimants]
(iii)	Funeral and obsequies expenses	Rs.5,000/-	Rs.15,000/-
(vii)	Transportation Expenses		Rs.5,000/-
(vi)	Loss of estate	-Nil-	15,000/-
	Total compensation awarded	Rs. 23,30,016 /-	Rs.36,14,910/-

25. In the light of the analysis made and in view of the findings of this Court, Points No.2 is answered in favour of the claimants concluding that they are entitled for compensation of Rs.36,14,910/- with interest @6% p.a. and the impugned order and decree required to be modified accordingly.

26. The legal position with regard to awarding more compensation than what is claimed has been considered and settled by the Hon'ble Supreme Court holding that there is no bar for awarding more compensation than what is claimed. For

the said preposition of law, this Court finds it proper to refer the following observations of the Hon'ble Supreme Court made in:

(1) **Nagappa Vs. Gurudayal Singh and Others**¹⁰, at para 21 of the judgment, that –

“..there is no restriction that the Tribunal/Court cannot award compensation amount exceeding the claimed amount. The function of the Tribunal/Court is to award “just” compensation, which is reasonable on the basis of evidence produced on record.”

(2) **Kajal Vs. Jagadish Chand and Ors.**¹¹ at para 33 of the judgment, as follows:-

“33. We are aware that the amount awarded by us is more than the amount claimed. However, it is well settled law that in the motor accident claim petitions, the Court must award the just compensation and, in case, the just compensation is more than the amount claimed, that must be awarded especially where the claimant is a minor.”

(3) **Ramla and Others Vs. National Insurance Company Limited and Others**¹² at para 5 of the judgment, as follows:-

“5. Though the claimants had claimed a total compensation of Rs 25,00,000 in their claim petition filed before the Tribunal, we feel that the compensation which the claimants are entitled to is higher than the same as mentioned supra. There is no restriction that the Court cannot award compensation exceeding the claimed amount, since the function of the Tribunal or Court

¹⁰ (2003) 2 SCC 274

¹¹ 2020 (04) SCC 413

¹² (2019) 2 SCC 192

under Section 168 of the Motor Vehicles Act, 1988 is to award “just compensation”. The Motor Vehicles Act is a beneficial and welfare legislation. A “just compensation” is one which is reasonable on the basis of evidence produced on record. It cannot be said to have become time-barred. Further, there is no need for a new cause of action to claim an enhanced amount. The courts are duty-bound to award just compensation.”

27. Whether the compensation can be enhanced in the absence of an appeal or cross appeal by the claimants is the next question. The legal position as to powers of the Appellate Court particularly while dealing with an appeal in terms of Section 173 of the Motor Vehicles Act, 1988, where the award passed by the learned MACT under challenge at the instance of the Insurance Company (Respondents) and bar or prohibition if any to enhance the quantum of compensation and awarding just and reasonable compensation, even in the absence of any appeal or cross objections was considered by the Division Bench of this Court in a case between ***National Insurance Company Limited vs. E. Suseelamma and others***¹³ in M.A.C.M.A. No.945 of 2013, while answering point No.3 framed therein vide, para 50 of the judgment, which reads as follows:

50. In our considered view, the claimant/respondents are entitled for just compensation and if on the face of the award or even in the light of the evidence on record, and keeping in view the settled legal position regarding the claimants being entitled to just compensation and it also being the statutory duty of the Court/Tribunal to award just compensation, this Court in the exercise of the appellate powers can enhance the amount of compensation even in the absence of appeal or cross-objection by the claimants.

¹³ 2023 SCC Online AP 1725

28. Observations made by the Division Bench of this Court in ***National Insurance Company Limited vs. E. Suseelamma and others*** (12 supra) case are in compliance with the observations of Hon'ble Apex Court in ***Surekha and Others vs. Santosh and Others***¹⁴.

29. In ***Surekha and Others vs. Santosh and Others*** (13 supra) case, in Civil Appeal No.476 of 2020 vide judgment dated 21.01.2020, three judges of the Hon'ble Supreme Court observed that "it is well stated that in the matter of Insurance claim compensation in reference to the motor accident, the Court should not take hyper technical approach and ensure that just compensation is awarded to the affected person or the claimants". While addressing a case where the High Court has declined to grant enhancement on the ground that the claimants fail to file cross appeal above observations are made.

Point No.3:-

30. In view of the above discussion and the conclusions drawn under points 1 and 2, **in the result**, appeal is **dismissed as follows:-**

[i] The compensation awarded under the impugned decree and order is modified and enhanced to Rs. **Rs.36,14,910/-**, with interest @6% p.a.

¹⁴ (2021) 16 SCC 467

[ii] The claimants/petitioners shall pay the Court fee in respect of the enhanced amount of compensation.

Apportionment:-

[iii] Claimants No.2 to 4 are entitled for Rs.1,00,000/- each, which shall be inclusive of the compensation amount under the head of loss of parental consortium.

[iv] Claimant No.1 is entitled for the remaining amount of compensation @Rs. 33,14,910/-, with proportionate interest.

[v] Time for payment /deposit of balance amount is two (2) months.

(a) If the claimants furnish the bank account number within 15 days from today, the 2nd respondent-Insurance Company/appellant 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 2nd respondent-Insurance Company/appellant shall deposit the amount before the learned MACT and the claimants are entitled to withdraw the amount at once on deposit.

As a sequel, miscellaneous petitions, if any, pending in the appeal shall stand closed.

A. HARI HARANADHA SARMA, J

Date: 08.01.2026

Note:-

L.R. copy to be marked.

B/o. Pnr

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

M.A.C.M.A.No.3601 of 2012

Dated 08.01.2026

Pnr

*** THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA**

M.A.C.M.A. No.3601 of 2012

% 08.01.2026

M/s.United India Insurance Co Ltd, Rep By Its Divisional Manager O/o.Kurnool Branch, Kurnool.

.... Appellant

Versus

\$ K Subbalakshamma 04 Ors, W/o.Late Bala Subramanyam, Hindu, Occ:House wife, R/o.H.No.29/2007-A, SBI Colony, Nandyal, Kurnool District and 4 Others.

.... Respondents

! Counsel for the Petitioner : Sri Srinivasa Rao Katakamsetty

! Counsel for the Respondents : 1. A JAYA SANKARA REDDY
2. K NAGA PHANINDRA

< Gist:

> Head Note:

? Cases referred:

2009 (13) SCC 530

2025 SCC Online AP 2656

2013 (0) sc (Raj) 812

2021(1) SCC 171

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

(1999) 1 SCC 90

2009 (6) SCC 121

2017(16) SCC 680

(2018) 18 SCC 130

(2003) 2 SCC 274

2020 (04) SCC 413

(2019) 2 SCC 192

***THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA**

M.A.C.M.A. No.3601 of 2012

Jangamareddygari ramathulasamma, w/o. J.Kesava Reddy
R/o. Thimmampeta village, garladinne mandal, Anantapur District.

.... Petitioner

Versus

§ K Subbalakshamma 04 Ors, W/o.Late Bala Subramanyam, Hindu,
Occ:House wife, R/o.H.No.29/2007-A, SBI Colony, Nandyal, Kurnool District and
4 Others

.... Respondents

DATE OF ORDER PRONOUNCED: 08.01.2026

SUBMITTED FOR APPROVAL:

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

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|---|--------|
| 1. Whether Reporters of Local Newspapers may be allowed to see the Order? | Yes/No |
| 2. Whether the copies of Order may be marked to Law Reporters/Journals? | Yes/No |
| 3. Whether Your Lordships wish to see the fair copy of the Order ? | Yes/No |

A. HARIHARANADHA SARMA, J