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APHC010255282017

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3604]
(Special Original Jurisdiction)

MONDAY, THE 2ND DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL Nos: 1122 OF 2017 & 118 OF 2023

MACMA.No.1122 of 2017:

Between:

1. THE NATIONAL INSURANCE COMPANY LTD.,E.G.DIST, REP.BY.ITS DIVISIONAL MANAGER, KAKINADA

...APPELLANT

AND

1. KATADI MANGA DEVI E G DIST ANOTHER, W/O.LATE MAHESWARA RAO, AGE 38 YEARS, OCC: HOUSE WIFE, R/O.DOOR NO.59-17-6A, CHANDIKAVARI STREET, PASTORPETA, JAGANNAIEKPUR, KAKINADA, KAKINADA JCJC
2. PASUPULATI DURGA PRASAD, S/O.SRINIVASA RAO, AGE 32 YEARS, R/O.DOOR NO.1-8-127, VAMSI KRISHNA COLONY,. YANAM, YANAM JCJC.

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Courtaggrieved by the decree and judgment passed in O.P.No.186 of 2014 dated 29-09-2016 on the file of M.A.C.T.-Cum-VI Addl. District Court, East Godavari Kakinada,

IA NO: 1 OF 2017(MACMAMP 2215 OF 2017

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 condone the delay of 95 days in filing the appeal against M.V.O.P.No. 186/2014 passed on 29.09.2016 on the file of M.A.C.T.-cum- VI Addl.District Court, East Godavari Kakinada and to pass

IA NO: 2 OF 2017(MACMAMP 2216 OF 2017

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 all further proceedings, including stay of exection of order and decree Dt: 29.09.2016 passed in M.V.O.P.No. 186/2014 , by the M.A.C.T.-cum- VI Addl.District Court, East Godavari Kakinada and to pass

Counsel for the Appellant:

1. SRAVAN KUMAR MANNAVA

Counsel for the Respondent(S):

1. G RAMA GOPAL

MACMA.No.118 of 2023:

Between:

1. SMT KATADI MANGA DEVI,, W/O. LATE MAHESWARA RAO, 39 YEARS, R/O. D.NO. 59-17-6A, CHANDIKAVARI STREET, PASTORPETA, JAGANNAIKPUR, KAKINADA, EAST GODAVARI DISTRICT.

...APPELLANT

AND

1. PASUPULATI DURGA PRASAD, S/O. SRINIVASA RAO, 35 YEARS, OWNER CUM DRIVER OF ACTIVA HONDA MOTORCYCLE, BEARING REGN.NO. PY 04 8186, R/O. D.NO.1-8-127, VAMSIKRISHNA - COLONY, YANAM, EAST GODAVARI DISTRICT.
2. THE NATIONAL INSURANCE COMPANY LTD, REP. BY ITS DIVISIONAL MANAGER, KAKINADA, EAST GODAVARI DT.

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Court begs to present this Motor Accidents Civil Misc., Appeal before this Hon'ble Court, against the decree and order dated 29.09.2016 in MVOP.No. 186/2014 on the file of the Motor Accidents Claims Tribunal cum VI Additional District Judge, East Godavari District, Kakinada, East Godavari district, in so far as dismissing the claim of Rs.2,15,000/- out of the total claim of Rs. 15,00,000/-

IA NO: 1 OF 2017(MACMAMP 959 OF 2017

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 condone the delay of 45 days in filing the above appeal against the decree and order dated 29.09.2016 in MVOP.No. 186/2014 on the file of the Motor Accidents Claims Tribunal cum VI Additional District Judge, East Godavari District, Kakinada

Counsel for the Appellant:

1. G RAMA GOPAL

Counsel for the Respondent(S):

1. SRAVAN KUMAR MANNAVA
2. .

The Court made the following:

THE HON'BLE SMT. JUSTICE SUNITHA GANDHAM

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL Nos: 1122 OF 2017 & 118 OF 2023

COMMON JUDGMENT:

These two appeals arise out of the order and decree dated 29.09.2016 in M.V.O.P.No.186 of 2014 passed by the Chairman, Motor Accidents Claims Tribunal-Cum-VI Additional District Judge, Kakinada, East Godavari District.

2. M.A.C.M.A.No.1122 of 2017:

Assailing the order and decree dated 29.09.2016 in M.V.O.P.No.186 of 2014 passed by the Chairman, Motor Accidents Claims Tribunal-Cum-VI Additional District Judge, Kakinada, respondent No.2/Insurance company has preferred the instant appeal for awarding compensation of Rs.12,85,000/- for the untimely death of K. Maheswara Rao.

3. M.A.C.M.A.No.118 of 2023:

Assailing the order and decree dated 29.09.2016 in M.V.O.P.No.186 of 2014 passed by the Chairman, Motor Accidents Claims Tribunal-Cum-VI Additional District Judge, Kakinada, petitioner/appellant has preferred the instant appeal seeking enhancement of compensation.

4. Both the appeals are disposed of by this common judgment. The parties are being referred to as 'petitioner' and respondents' as arrayed in the petition before the Tribunal, for the sake of convenience and clarity.

5. **The case of the petitioner is thus**:

(a) On 19.10.2013, at about 12.00 P.M, while the deceased along with his relative one Naagidi Gagana Vijay proceeding on his bicycle towards Mahalakshmi Nagar, Turangi Village and when they reached near Essar petrol bunk, Mahalakshmi Nagar, Kakinada on 216 National Highway, one Activa Honda Motor Cycle bearing No.PY 04 8186 came in a rash and negligent

manner and dashed against their cycle and as a result of which, K. Maheswara Rao sustained grievous injuries and died on the spot.

(b) Basing on the report of father of the deceased, a case in crime No.197 of 2013 was registered of the offence under Section 304-A of Indian Penal Code (hereinafter referred to as 'the Code') against the rider of the motor cycle. The deceased aged about 48 years, working as hooking labourer in sea port, Kakinada, was earning Rs.12,000/- per month, as on the date of accident. Due to the sudden demise, petitioner who is the wife of the deceased lost her financial support. Respondent No.1 is the owner-Cum-rider and respondent No.2 is insurer of Activa Honda Motor Cycle bearing No.PY 04 8186. Both the respondents are jointly and severally liable to pay the compensation.

6. Having received notice, respondent No.1 remained *ex parte.* Respondent No.2 filed counter refuting the averments made in the petition, wherein, *inter alia* contended that the petitioner claimed excessive compensation, there was no negligence on the part of the rider of the motor cycle, the accident occurred due to the negligence of the deceased, respondent No.1 has no valid driving license, as on the date of accident and petitioner has not furnished correct particulars of insurance policy, and with other formal denials, prayed to dismiss the petition.

7. Taking into consideration of the aforementioned pleadings, the learned Tribunal settled the following issues:

1) Whether the accident occurred due to the rash and negligent driving of driver of Activa Honda motor cycle bearing No.PY 04 8186?

2) Whether the petitioner is entitled to the compensation, if so, from whom and to what extent?

3) To what relief?

8. During trial, Petitioner examined herself as PW.1 and she has got examined independent witnesses as PWs.2 & 3, and filed EXs.A1 to A6 documents. As against the said evidence, respondents have not adduced either oral or documentary evidence but filed EX.B1/Copy of insurance policy. At the culmination of trial, learned Tribunal allowed the petition granting compensation of Rs.12,85,000/- with interest at 7.5% per annum. Feeling aggrieved by the said order and decree dated 29.09.2016, petitioner preferred M.A.C.M.A.No.1122 of 2017 urging the following grounds:

(i) The order and decree of the learned Tribunal is contrary to law and facts, weight of evidence and probabilities of the case.

(ii) The learned Tribunal erroneously taken monthly income of the deceased at Rs.12,000/- by considering the evidence of PW.3 who is president of the union.

(iii) The learned Tribunal ought to have held that non examination of the employer and non production of certificate from employer is fatal to the case of the petitioner, and with other formal grounds, prayed to allow the appeal.

9. Feeling aggrieved by the said order and decree, respondent preferred M.A.C.M.A.No.118 of 2023, urging the following grounds:

(i) The order and decree of the learned Tribunal is contrary to law and facts, weight of evidence and probabilities of the case.

(ii) The learned Tribunal ought to have awarded the entire amount as claimed by the petitioner.

(iii) The learned Tribunal ought to have considered the future prospects and should have applied multiplier of ’15’ instead of ‘13’.

(iv) The learned Tribunal ought to have awarded an amount of Rs.1,00,000/- towards loss of estate and another one lakh towards consortium

to the wife of the deceased, and with other formal grounds, prayed to allow the appeal.

10. Heard both sides. Perused the material available on record including the impugned order dated 29.09.2016.

11. On hearing both sides and upon perusing the material available on record including the impugned order dated 29.09.2016, the points that would arise for consideration are as follows:

(1) Whether K. Maheswara Rao died in the accident occurred due to the rash and negligent riding of motor cycle bearing No.PY 04 8186?

(2) Whether the petitioner is entitled for compensation? If so, to what amount?

(3) Whether the order and decree dated 29.09.2016 in M.V.O.P.No.186 of 2014 passed by the Chairman, Motor Accidents Claims Tribunal-Cum-VI Additional District Judge, Kakinada, are sustainable in facts and law?

(4) To what relief?

12. Being the first appellate court and final fact finding court, this court has to re-examine and re-appreciate the entire oral as well as documentary evidence on record.

13. **Point No.1:**

(a) As seen from the record, there is absolutely no dispute with regard to the factum of accident and involvement of the offending vehicle i.e. motor cycle bearing No.PY 04 8186 in the accident. In order to prove the manner and method of accident, petitioner relied upon the evidence of PW Nos.1 and 2 coupled with EXs.A1 to A4 documents. It is evident from the record that P.W.1 who is the wife of the deceased is not an eye witness to the accident and the only available evidence to prove the manner and method of accident

is that of P.W.2 who accompanied the deceased at the time of accident and PW.2 testified that the accident occurred due to the rash and negligent riding of rider of the motor cycle i.e. respondent No.1, K. Maheswara Rao sustained injuries and died on the spot, and in the cross-examination of P.W.2, nothing useful material is elicited.

(b) It is evident from the record that a case in crime No.197 of 2013 is registered under Section 304-A of the Code against the rider of the motor cycle *vide* EX.A1/First information report and after completion of investigation, the investigating officer found fault with the rider of the motor cycle and laid charge sheet *vide* EX.A4. As seen from EX.A3/Motor Vehicles Inspector report, the accident not occurred due to any mechanical defect of the offending vehicle. Respondent No.2 failed to examine respondent No.1 who is the best person to speak about the accident and her non examination is fatal to the case of the respondents. So, in the absence of any rebuttal evidence, the evidence of PW Nos.1 and 2, which is buttressed by EXs.A1 and 3 to 4, clinchingly proves that the accident occurred due to the rash and negligent riding of the rider of the motor cycle bearing No.PY 04 8186. It is evident from EX.A2/Inquest report that the deceased succumbed to the injuries sustained in the accident. Hence, this point is answered holding that the accident occurred due to the rash and negligent riding of rider of the motor cycle bearing No.PY 04 8186, K. Maheswara Rao sustained injuries in the said accident and succumbed to the said injuries.

14. **Point No.2:**

(a) According to the petitioner, the deceased hale and healthy, aged about 48 years, working as hooking labourer in sea port, Kakinada and was earning Rs.12,000/- per month, as on the date of the accident. The petitioner is dependent and due to the sudden demise of the deceased, petitioner lost financial support. Insofar as the age of the deceased is concerned, in EX.A2/Inquest report, age of the deceased is mentioned as 48 years and

there is no contra evidence to that effect. Therefore, it can safely be concluded that the deceased aged about 48 years, as on the date of accident and the relevant multiplier is '13'. The petitioner, being his wife is entitled to compensation.

(b) As regards the income of the deceased, petitioner relied upon the evidence of PW.3/K. Raj Kumar/Secretary of Sree Vinayaka Deep Water Port Workers Union and he testified that the deceased working as hooking labour in their sea port and was earning Rs.12,000/- per month and he admitted EX.A6/Salary certificate of the deceased. As seen from EX.A6/Salary certificate, the deceased working as Hooking Labourer in Sea Port, Kakinada and earning salary of Rs.12,000/- per month. There is no contra evidence to that effect. So, it can safely be concluded that monthly income of the deceased is Rs.12,000/-.

(c) Applying the principles in ***Sarala Varma and Others Vs. Delhi Transport Corporation and another***[1] and ***National Insurance Company Ltd Vs. Pranay Sethi and others***[2], ***Magma General Insurance Company Limited v. Nanu Ram alias Chuhru Ram and others***[3], this Court assesses the compensation as follows:

Sl. No.	**Heads**		**Calculation**
1.	Annual income (Rs.12,000 × 12)	Rs.	1,44,000.00
2.	Deduction towards personal expenses (1,44,000 × 1/3)	Rs.	48,000.00
3.	Total income (1,44,000 − 48,000)	Rs.	96,000.00
4.	Future prospects (25% of 96,000)	Rs.	24,000.00
5.	Total loss of dependency (96,000 + 24,000) =1,20,000 × 13	Rs.	15,60,000.00
6.	Loss of consortium (spousal)	Rs.	40,000.00

[1] (2009) ACJ 1298
[2] (2017) 6 SCC 680
[3] (2018) 18 SCC 130

7.	Funeral expenses	Rs.	15,000.00
8.	Loss of estate	Rs.	15,000.00
	Total	Rs.	**16,30,000.00**

(d) In the court's well considered view that in accordance with the propositions of law laid down by the Hon'ble Apex Court, the compensation of **Rs.16,30,000/- (Rupees Sixteen Lakhs Thirty Thousand Only)** is just and reasonable, having regard to the loss suffered by the dependants of the deceased.

(e) So far as liability of the respondents is considered, a finding is already given in point No.1 holding that the accident occurred only due to the rash and negligent riding of the rider of the Activa Honda Motor Cycle bearing No.PY 04 8186 i.e. respondent No.1/rider-Cum-owner. It is not in dispute that EX.B1/Policy of the offending vehicle was in force as on the date of the accident and as such, respondent No.2 is liable to pay compensation. Hence, this point is answered holding that respondent Nos.1 and 2 are jointly and severally liable to pay compensation.

15**. Point No.3:**

Upon reappraisal of the evidence on record and for the reasons stated above, this Court concludes that the learned Tribunal erred in determining just and fair compensation and as such, the award is therefore liable to be modified. Hence, this point is answered accordingly.

16. **Point No.4:**

MACMA.No.118 of 2023:

(i) ***In the result***, and in view of the findings in points Nos.1 to 3, this appeal is allowed, and the compensation awarded by the learned Tribunal is enhanced **from Rs.12,85,000/- (Rupees Twelve Lakhs Eighty Five**

Thousand Only) to Rs.16,30,000/- (Rupees Sixteen Lakhs Thirty Thousand Only) together with simple interest at 7.5% per annum from the date of the petition until realization, subject to payment of additional court fee on **Rs.1,30,000/- (Rupees One Lakh Thirty Thousand Only)** by the petitioner before the Registry within thirty (30) days from today.

(ii) The compensation amount, together with interest, after deducting any amount already deposited, shall be deposited within one (1) month from the date of receipt of this common judgment by the learned Tribunal.

(iii) Upon such deposit, petitioner is permitted to withdraw the compensation awarded to her, together with the accrued interest, after deducting any amount already paid.

MACMA.No.1122 of 2017:

In the result, and in view of the findings in points Nos.1 to 3, this appeal is dismissed. There shall be no order as to costs.

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

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SUNITHA GANDHAM, J

Dt: 02.11.2026

Vns

Whether the order is :

Speaking Yes/No ✓ / Reasoned Yes/No

Reportable Yes/No ✓ / Non-Reportable Yes/No