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ROC No.802/SO/2023 **Dated 05.01.2024**

17 JAN 2024

To

All the Principal District Judges in
Andhra Pradesh.

R 972
17/1/24

Sir,

Sub: High Court of Andhra Pradesh – Copy of Judgment dated 12.12.2023 passed in M.A.C.M.A. No. 307 of 2015 by the High Court of Andhra Pradesh – Forwarded – Reg.

Ref: Judgment dated 12.12.2023 passed in M.A.C.M.A. No. 307 of 2015 by the High Court of Andhra Pradesh.

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Adverting to the subject and reference cited, as directed, I am forwarding herewith copy of Judgment dated 12.12.2023 passed in M.A.C.M.A. No. 307 of 2015 by the High Court of Andhra Pradesh, for causing communication of the same to all the Chairmen, Motor Accident Claims Tribunals functioning in your respective units, for strict compliance of the directions issued therein.

I also request you to circulate the same among the other Judicial Officers working in your respective units, for information.

Yours sincerely,
Y. Lakshmana Rao
05/01/2024
REGISTRAR GENERAL

Encl: As stated.

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17/1

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

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M.A.C.M.A.No.307 OF 2015

Between:

1. Seeram Kanaka Ratnam, W/o.Late Durga Rao,
   Hindu, Aged 32 years, House wife and dependant,
   R/o.1-3-28A, Nalugu Stambala Centre,
   Vidyadharapuram, Vijayawada.

2. Seeram Veera Babu, S/o.Late Durga Rao,
   Hindu, Aged 15 years, Student,
   R/o.1-3-28A, Nalugu Stambala Centre,
   Vidyadharapuram, Vijayawada.

3. Seeram Jaya Durga, D/o.Late Durga Rao,
   Hindu, Aged 9 years, Student,
   R/o.1-3-28A, Nalugu Stambala Centre,
   Vidyadharapuram, Vijayawada.

4. Seeram Ammaji, W/o.Late Rama Rao,
   Hindu, Aged 60 years, House wife and dependant,
   R/o.1-3-28A, Nalugu Stambala Centre,
   Vidyadharapuram, Vijayawada. .... **APPELLANTS**

Versus

1. Sangana Subba Reddy, S/o.Venkateswarlu,
   Hindu, Aged 35 years, D/o.41-1-1110/1,
   Malaria Hospital Road, Bramrambapuram,
   Krishna Lanka, Vijayawada,
   Driver of crime vehicle Tata Ace Auto No.AP 16 TC 5922.

2. Andhra Venkateswara Rao, S/o.Yelamandaiah,
   Aged 43 years, R/o.D.No.41-22/1-23-B,
   Bramarambhapuram, Krishna Lanka,
   Vijayawada, Owner of crime vehicle
   Tata Ace Auto No.AP 16 TC 5922.

3. Future Generali India Insurance Company Limited,
Rep. by its Divisional Manager, 4th floor,
CVR Complex, Besides Kalanikhetan,
Labbipet, M.G.Road, Vijayawada. ....**RESPONDENTS**

DATE OF JUDGMENT PRONOUNCED : 12.12.2023

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI

1. Whether Reporters of Local Newspapers may be allowed to see the Judgment? Yes/No

2. Whether the copy of Judgment may be marked to Law Reporters/Journals? Yes/No

3. Whether His Lordship wish to see the fair copy of the Judgment? Yes/No

B.V.L.N.CHAKRAVARTHI, J

*** HON'BLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI**

+ M.A.C.M.A.No.307 OF 2015

% 12.12.2023

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   Hindu, Aged 9 years, Student,
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Rep. by its Divisional Manager, 4th floor,
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Labbipet, M.G.Road, Vijayawada. ....**RESPONDENTS**

! Counsel for the Appellants : Sri Challa Ajay Kumar

^ Counsel for the 3rd Respondent : Sri Pampana Ravi Kumar

< Gist:

> Head Note:

? Cases referred:

1. 2018(5) SCC 656

2. 2013 (10) SCC 946

3. 2009 (13) SCC 530

4. 2011 (10) SCC 509

5. AIR 2023 (SC) 3349

6. 1980 (3) SCC 457

7. 2009 ACJ 1298

8. (2017) 16 SCC 680

9. 2018 ACJ 2782

10. 2022 LiveLaw (SC) 734

11. 2019 ACJ 1849 (SC)

This Court made the following:

HON'BLE SRI JUSTICE B.V.L.N. CHAKRAVARTHI

M.A.C.M.A.No.307 OF 2015

J U D G M E N T:

Challenging the order dated 05.01.2015 passed in M.V.O.P.No.15/2012 on the file of the Motor Accident Claims Tribunal-cum-XII Addl.District Judge, Krishna, (hereinafter referred to as 'Tribunal'), the claimants filed the appeal.

2. For the sake of convenience, the parties are arrayed as parties before the learned Tribunal.

3. The appellants/claimants filed claim petition before the learned Tribunal U/s.166 of Motor Vehicles Act, 1988 claiming compensation of Rs.10,00,000/- for the death of Seeram Durga Rao (hereinafter referred to as 'deceased'), alleging that the 1st petitioner is wife, petitioners No.2 and 3 are children and the 4th petitioner is mother of deceased; The deceased used to work as mason and earning Rs.250/- per day; On 16.09.2011 at about 02.00 p.m. the deceased proceeding on his TVS Moped to go to his house to take lunch; on the way, one TATA ACE vehicle bearing No.AP 16 TC 5922 owned by the 2nd respondent, driven by the 1st respondent, came in a rash and negligent manner, in opposite direction in wrong route; and hit the moped of

deceased; as a result the deceased fell down, sustained severe injuries to head and died on the spot.

4. Before the learned Tribunal, the 3rd respondent/Insurance Company filed counter, while traversing with the material averments with regard to manner of accident, rash and negligence on the part of the driver of the crime vehicle, nature of injuries, age and avocation of the deceased, liability to pay compensation, contended that the deceased did not wear helmet while proceeding on his vehicle; and he was negligent, in occurrence of the accident; therefore, the 3rd respondent is not liable to pay compensation to the petitioners.

5. The respondents No.1 and 2, who are owner and driver of the crime vehicle bearing No.AP 16 TC 5922 respectively, remained exparte.

6. On the strength of the pleadings of both parties, the Tribunal framed the following issues:

> 1. Whether the deceased Seeram Durga Rao died in a motor accident that occurred on 16.09.2011 at about 02.00 p.m. at Cheruvu Center, Vidhyadharapuram, Vijayawada, due to rash and negligent driving of crime Tata Ace bearing No.AP 16 TC 5922?

2. What is the correct age and income of deceased by the date of accident?

3. Whether petitioners are entitled to the compensation as prayed for? If so, for what amount and from whom?

4. To what relief?

7. The petitioners to prove their case, examined the 1st petitioner as P.W-1, and a co-worker of deceased as P.W-2. Exs.A-1 to A-11 were marked in their evidence. The 3rd respondent/Insurance Company did not examine any witness, but filed Ex.B-1 copy of the policy.

8. The learned Tribunal, considering the evidence of P.Ws-1 and 2, Exs.A-1 to A-11, held that the petitioners failed to prove that accident was occurred due to the rash and negligent acts of the 1st respondent and therefore, the petitioners are not entitled for compensation; and dismissed the petition without costs.

9. The learned counsel for appellants/claimants would submit that the claimants are wife, two minor children and mother of the deceased; their case is that the deceased was working as a mason and earning Rs.250/- per day; while so, on 16.09.2011 at about 02.00 p.m. the deceased was proceeding on TVS Moped from work place to house; on the way, an auto bearing No.AP 16 TC 5922 belonging to the

2nd respondent, driven by the 1st respondent came in opposite direction, rashly and negligently, in wrong route; dashed the moped of the deceased; as a result, the deceased fell down and sustained fatal injuries on head and died on the spot; therefore, the claimants, who are dependants on the deceased, filed the claim petition U/s.166 of M.V.Act, claiming compensation of Rs.10,00,000/- against the respondents No.1 to 3, who are driver of the crime vehicle, owner/insured of the crime vehicle, and Insurance Company/insurer of the crime vehicle respectively.

He would further submit that the claimants in order to establish their case, examined the 1st claimant as P.W-1 and filed 11 documents, which were marked as Exs.A-1 to A-11, which includes copy of FIR (Ex.A-1), copy of inquest report (Ex.A-2), copy of scene observation report (Ex.A-3), copy of driving licence of the 1st respondent (Ex.A-4), copy of registration certificate of auto (Ex.A-5), copy of insurance policy (Ex.A-6), copy of M.V.I. Report (Ex.A-7) and copy of police report (charge sheet) (Ex.A-8).

He would also submit that on behalf of the respondents, the respondents No.1 and 2 did not file any written statement disputing the way in which the accident was occurred as contended by the claimants; the Insurance Company filed written statement denying the

case of the claimants; and contended that the deceased was not wearing helmet while proceeding on the vehicle; and that the deceased was negligent; but did not adduce any evidence contra to the police opinion; and to establish that accident was occurred due to negligence of the deceased; But the learned Tribunal erroneously opined that direct evidence is required and claimants failed to prove that the accident was occurred due to rash and negligent driving of the driver of the auto on the ground that as seen from the contents of the police report (charge sheet), the accident was occurred due to head on collision and in such a case, to decide who is negligent, direct evidence is required; ignored Ex.A-3 scene observation report prepared by the police, on the ground that it was prepared one day after the accident; and that it is not possible to decide as to who was negligent basing on Ex.A-3; the learned Tribunal failed to appreciate the facts in a proper perspective; the learned Tribunal lost sight of the basic principle in law that the learned Tribunal has to consider the evidence in a holistic view that the rules of the pleadings do not strictly apply to claims filed under Motor Vehicles Act, as the claimant is required to make an application in a form prescribed under the Act; and also that the learned Tribunal cannot be seen as an adversarial adjudication body; and that non-examination of the witness per se cannot be treated as

fatal to the claim set up before the learned Tribunal; principles of preponderance of probability only are applicable; unfortunately, the learned Tribunal in the case on hand, decided the issue very casually, disposed the issue in a cryptic manner, without following basic principles, in deciding a claim U/s.166 of M.V.Act, and therefore, came to a perverse opinion and dismissed the claim petition solely on the ground that it requires direct evidence to prove negligence; ignored the fact that the police after investigation laid the police report (charge sheet) against the 1st respondent for the offence under Section 304 IPC.

In support of his arguments, the learned counsel for claimants relied upon the judgment of the Hon'ble Apex Court in the case of **Mangla Ram Vs. Oriental Insurance Company Limited and others**[1].

10. The order of the learned Tribunal would disclose that the 1st respondent i.e., driver and owner of the crime vehicle did not dispute the case of the claimants and remained exparte. Before this Court none appeared for the 3rd respondent/Insurance Company to submit arguments.

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[1] 2018(5) SCC 656

11. However, the contention of the 3rd respondent/Insurance Company before the learned Tribunal is that the deceased was not wearing helmet while driving the motor cycle; and that he was negligent while driving the motor cycle, and therefore, the accident was occurred.

12. In the light of above rival contentions, the points that would arise for consideration in this appeal are as under:

1. Whether the accident was occurred due to rash or negligent driving of the 1st respondent/driver of the auto or the deceased?

2. Whether the claimants are entitled to compensation, If so, what is the just compensation?

3. To what relief?

13. **POINT No.1:**

It is the specific contention of the claimants that the deceased on 16.09.2011 at about 02.00 p.m. was proceeding on his TVS Moped to his house, on the way, the auto (offending vehicle) owned by the 2nd respondent, driven by the 1st respondent, came in a rash and negligent manner, in opposite direction, in wrong route, and dashed the moped of the deceased.

14. The contention of the 3rd respondent/insurer is that the deceased drove the motor cycle in a negligent manner, and as a result, the accident was occurred. It is pertinent to note down that neither the 1st respondent/driver nor the owner of the offending vehicle denied the case of the claimants, nor support the case of the Insurance Company. They remain exparte before the learned Tribunal.

15. The claimants to establish their case, examined the 1st claimant i.e., wife of deceased as P.W-1. In the chief-examination affidavit, she re-stated the pleadings. In the cross-examination, the 3rd respondent / Insurance Company put a suggestion to her that the accident took place due to negligence of her husband. She denied the same as not true. It is pertinent to note down that in her evidence, she filed copy of FIR (Ex.A-1), copy of scene observation report (Ex.A-3), copy of police report (charge sheet) (Ex.A-8).

16. It is an admitted fact as per Ex.A-8 police report (charge sheet), police after registration of Ex.A-1 copy of FIR, conducted investigation and on conclusion of investigation, laid the police report (charge sheet) for the offence punishable U/s.304-A of Indian Penal Code 1860, and section 134 (a) & (b) r/w.187 of Motor Vehicles Act 1988, against the 1st respondent, opining that their investigation revealed that on 16.09.2011 the deceased after attending mason work, at about

02.00 p.m. was coming for lunch on his moped, at that moment, the accused i.e., the 1st respondent being the driver of the Tata Ace auto bearing No.AP 16 TC 5922 proceeding in opposite direction, drove the auto at high speed and in a rash and negligent manner without blowing horn, went extreme to his right side and dashed the moped of deceased, as a result, the deceased fell down on the road and sustained multiple bleeding injuries, then the accused (1st respondent) left the auto at the scene and ran away, and later, the deceased was shifted to Government General Hospital, Vijayawada, and admitted for treatment; while undergoing treatment as in-patient, he succumbed to injuries in Government General Hospital, Vijayawada.

17. The 3rd respondent/Insurance Company did not challenge this opinion/report of the police before any authority stating that police did not conduct investigation properly, or as per procedure contemplated in law. In fact, they did not even put a suggestion to that effect in the cross-examination of P.W-1. The 3rd respondent/Insurance Company did not choose to place any contra evidence to probable their plea that the accident was occurred due to the negligence of the deceased. It did not take any steps to examine the 1st respondent i.e., driver of the offending vehicle i.e., auto to speak about the way in which the

accident was occurred, as he was the best witness available to speak about the accident.

18. The claimants filed Ex.A-3 scene observation report prepared by police, which would show that the police examined the scene of offence on 17.09.2011 at about 06.30 p.m. and their observation discloses that the scene of offence located to the left side of road margin on the road running from Sitara Centre towards Kummaripalem. It would support the case of the claimants that the 1st respondent came in wrong route. As already stated above, the police report (charge sheet) also disclosed that the 1st respondent came towards extreme right side of the road i.e., in a wrong side, and as a result, he dashed the moped of the deceased, which was coming on the left side of the road i.e., in the right way. This alone is sufficient to held that the plea of the claimants is more probable that the 1st respondent came in a wrong side against the rules, and as a result, he dashed the moped of the deceased, who was coming on left side as per rules. Therefore, it would establish that driver of the auto was negligent, as he drove the auto against traffic rules, and it is the cause for occurrence of accident.

19. Therefore, the facts and circumstances in the case culled out from the evidence placed before the learned Tribunal would probable the plea of the claimants that the accident was occurred due to

negligence of the 1st respondent, though it was a head on collision. Unfortunately, the learned Presiding Officer of the Tribunal ignored these circumstances, dealt the issue very casually, decided the issue in a cryptic manner. This led to a perverse finding. He ignored basic legal principles of evidence that the learned Tribunal should examine the evidence on the touchstone of preponderance of probabilities in a claim for compensation under Motor Vehicles Act 1988, and standard of proof beyond reasonable doubt could not have been applied, as held by the Hon'ble Apex Court in the following judgments:

1. **Dulcina Fernandes and others Vs. Joaquim Xavier Cruz and another**[2].

2. **Bimla Devi and others Vs. Himachal Road Transport Corporation**[3].

3. **United India Insurance Company Limited Vs. Shila Datta**[4].

4. **Mathew Alexander Vs. Mohammed Shafi and another**[5].

that "*the Tribunal has to follow holistic view of evidence and direct proof of an accident caused by a particular vehicle need not be established by*

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[2] 2013 (10) SCC 946

[3] 2009 (13) SCC 530

[4] 2011 (10) SCC 509

[5] AIR 2023 (SC) 3349

the claimants, and the claimants have to establish their case on touchstone of preponderance of probabilities and the standard proof of beyond reasonable doubt cannot be applied while considering the petition seeking compensation on account of death or injury in road traffic accident."

20. Hon'ble Apex Court in the case of **N.K.V. Bros (P) Ltd., Vs. M.Karumai Ammal**[6], **Mangla Ram Vs. Oriental Insurance Company Limited and others**, and also in the recent judgment of the Hon'ble Apex Court in **Mathew Alexander Vs. Mohammed Shafi and another**, held that *"it is clear that the approach in examining the evidence in as criminal case is not at all to find fault that the non-examination of the eye witness in the case, but to analyse the evidence already on record to ascertain that is sufficient to answer the matter in issue and the touchstone of preponderance of probability, and further, non-examination of witness per se cannot be treated as fatal to the claim set up before the Tribunal and in other words, the approach should be holistic analysis of the entire pleadings and evidence by applying the principles of preponderance of probability and standard proof beyond reasonable doubt cannot be applied while considering the petition*

[6] 1980 (3) SCC 457

seeking compensation on account of death or injury in road traffic accidents".

21. It is pertinent to note down that in the case of **N.K.V. Bros (P) Ltd., Vs. M.Karumai Ammal,** it was contended by the owner that "*criminal case in relating to the accident had ended in acquittal, and for which reason the claim under Motor Vehicles Act ought to be rejected*". The Hon'ble Apex Court negatived the said argument by observing that

> *"the nature of proof required to establish culpable rashness, punishable under the Indian Penal Code, is more stringent than negligence sufficient under the law of tort to create liability."*

22. The Hon'ble Apex Court in para 3 of the judgement observed as under:

> *"Road accidents are one of the top killers in our country, specially when truck and bus drivers operate nocturnally. This proverbial recklessness often persuades the courts, as has been observed by us earlier in other cases, to draw an initial presumption in several cases based on the doctrine of res ipsa loquitur. Accidents Tribunals must take special care to see that innocent victims do not suffer and drivers and owners do not escape liability merely because of some doubt here or some obscurity there. Save in plain cases, culpability must be inferred from the circumstances where it is fairly reasonable. The court should not succumb to niceties, technicalities and mystic maybes. We are emphasizing*

this aspect because we are often distressed by transport operators getting away with it tanks to judicial laxity, despite the fact that they do not exercise sufficient disciplinary control over the driver in the matter of careful driving. The heavy economic impact culpable driving of public transport must bring owner and driver to their responsibility to their neighbour. Indeed, the State must seriously consider no fault liability by legislation. A second aspect which pains us is the inadequacy of the tribunals. We must remember that judicial tribunals are State organs and Article 41 of the Constitution lays the jurisprudential foundation for State relief against accidental disablement of citizens. There is no justification for niggardliness in enormous delay in disposal of accident cases resulting in compensation, even if awarded, being postponed by several years,. The States must appoint sufficient number of tribunals and High Courts should insist upon quick disposal so that the many States are unjustly indifferent in this regard."

23. In the light of above dictum laid down by the Hon'ble Apex Court in various judgments, Tribunals must take care to see that innocent victims do not suffer, and drivers and owners do not escape liability merely because of some doubt here or some obscurity there. The culpability must be inferred from the circumstances where it is reasonable, and the Tribunal should not succumb to niceties, technicalities and mystic maybes as laid down by the Hon'ble Apex Court. The Tribunal shall take a holistic view of evidence placed before

it. The Tribunal while appreciating the evidence shall not forget the rule that the claimants to establish their case on the touchstone of preponderance of probabilities only. Standard of proof beyond reasonable doubt cannot be applied while considering the petition seeking compensation on account of death or injury in a road traffic accident.

24. In the case on hand, as already discussed, the learned Tribunal disposed of the claim petition in a cryptic manner, losing sight of the above principles of law and brushed aside the police report (charge sheet) (Ex.A-8) and scene observation report (Ex.A-3) placed by the claimants without valid reasons and came to a perverse opinion. As a result, injustice was done to the claimants, who approached the Tribunal for compensation for death of their savior, in a road traffic accident, Therefore, the 1st respondent/driver, 2nd respondent/insured and the 3rd respondent/insurer of the offending vehicle walked away happily, leaving the claimants to their fate. Therefore, this Court is of the considered opinion that type of approach is not expected from the Tribunal.

25. In the light of the above facts and circumstances, this Court is of the considered opinion that the finding of the learned Tribunal is liable to be set aside. Accordingly, it is set aside, and it is held that the

claimants successfully established that the accident was occurred due to negligent driving of the 1st respondent. Accordingly, the point No.1 is answered.

26. **POINT No.2**:

In view of the finding on above point No.1, the claimants are entitled to compensation. Now the point for consideration is, "*What is the just compensation entitled by the claimants*?". The contention of the claimants is that the deceased was working as a mason and earning Rs.250/- per day at the time of accident, and he was aged about 35 years. The claimants to support their case examined the 1st claimant, who is the wife of deceased, as P.W-1. She reiterated the case of the claimants in the chief-examination affidavit stating that the deceased was aged about 35 years, and he was working as a mason and earning Rs.250/- per day at the time of accident.

27. The claimants to corroborate the evidence of P.W-1, examined another mason as P.W-2. He deposed that the deceased was working as mason and earning Rs.250/- per day in the year 2011. He further deposed that himself and the deceased were jointly attending mason work.

28. It is pertinent to note down that even as per Ex. A-8 police report (charge sheet) the deceased was returning to home for lunch after attending mason work. In the light of said evidence, this Court is of the considered opinion that the claimants established that the deceased was working as mason and earning Rs.250/- per day. The deceased was working as mason in Vijayawada City, which is one of the biggest city in Andhra Pradesh State. In those circumstances, this Court is of the considered opinion that the amount of Rs.250/- per day claimed as income of the deceased at the time of accident, is reasonable and can be accepted. Therefore, the monthly income of the deceased would be Rs.250 x 30 = Rs.7,500/-.

29. There are four dependents in this case. Therefore, 1/4th of the income of deceased should be deducted towards his personal expenses. Thus, the monthly income of deceased will be Rs.7,500 – 1,875 = Rs.5,625/-, and the annual income of the deceased is Rs.5,625 x 12 = Rs.67,500/-.

30. The age of deceased was fixed by the learned Tribunal, as 35 years. As per the judgment of the Hon'ble Apex Court in the case of **Sarla Verma and another Vs. Delhi Road Transport Corporation**

and others[7], the multiplier applicable to arrive loss of dependency for the age group of '31 to 35 years' is '16'. Thus, the loss of dependency is Rs.67,500 x 16 = Rs.10,80,000/-.

31. In view of the judgment of the Hon'ble Apex Court in the case of **National Insurance Company Limited Vs. Pranay Sethi and others**[8], the claimants are entitled for future prospects @ 40%, on the established income, as the deceased is below 40 years. Thus, the future prospects entitled by the claimants would be Rs.10,80,000x40/100 = Rs.4,32,000/-.

32. In view of the judgment of the Hon'ble Apex Court in the case of **National Insurance Company Limited Vs. Pranay Sethi and others**, the claimants are entitled for Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses, total comes to Rs.30,000/-.

33. In view of the judgment of the Hon'ble Apex Court in the case of **Magma General Insurance Company Limited Vs. Nanu Ram @ Chuhru Ram and others**[9], the 1st claimant being wife of deceased is entitled for Rs.40,000/- towards loss of spouse consortium,

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[7] 2009 ACJ 1298

[8] (2017) 16 SCC 680

[9] 2018 ACJ 2782

claimants No.2 and 3 being the minor children of the deceased are entitled for Rs.40,000/- each, towards loss of parental consortium, and thus, the claimants are entitled for Rs.1,20,000/- towards loss of consortium.

34. Therefore, the claimants are entitled for a total compensation of Rs.10,80,000 + 4,32,000 + 1,50,000 = Rs.16,62,000/-. In that view of the matter, the finding of the learned Tribunal warrants interference of this Court.

35. The Hon'ble Apex Court in the case of **Mona Baghel and others Vs. Sajjan Singh Yadaav and others**[10], held that in the matter of compensation, the amount actually due and payable is to be awarded despite the claimant having sought for a lesser amount and the claim petition being valued at a lesser value. The law is well settled that in the matter of compensation, the amount actually due and payable is to be awarded, despite the claimant having sought for a lesser amount and the claim petition being valued at a lesser value. Therefore, though the claimants sought for a lesser amount, and the claim petition being valued at lesser value for Rs.10,00,000/-, the amount actually due and payable to be awarded is Rs.16,62,000/-.

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[10] 2022 LiveLaw (SC) 734

36. In view of the above judgment of the Hon'ble Apex Court case, the Court shall award just compensation, even if it exceeds the amount claimed by the claimants, subject to payment of court fee. In that view of the matter, this Court is of the considered opinion that the appellants are entitled to Rs.16,62,000/- towards just compensation.

37. When coming to the rate of interest, considering the fact that the accident was occurred in the year 2011 and in view of the Hon'ble Apex Court judgement in the case of **National Insurance Company Limited Vs. Mannat Johal**[11], this Court is of the considered opinion that reasonable interest to be awarded in this case U/s.171 of M.V.Act 1988, can be fixed at 7.5% per annum from the date of petition, till the date of deposit.

38. As per Ex.A-6 filed by the claimants before the learned Tribunal, policy was valid from 31.08.2011 till 30.08.2012. The accident in the case on hand was occurred on 16.09.2011. The 2nd respondent/owner of the offending vehicle is vicariously liable for the negligence of the 1st respondent. The 3rd respondent/Insurance Company/insurer of the offending vehicle is liable to indemnify the 2nd respondent. Hence, the

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[11] 2019 ACJ 1849 (SC)

respondents No.1 to 3 are jointly and severally liable to pay compensation to the claimants.

39. In the light of above discussion, and considering the facts and circumstances of the case, the point No.2 is answered accordingly.

40. **POINT No.3**: To what relief?

In the light of findings on points No.1 and 2, the appeal is liable to be allowed, by setting aside the order and decree dated 05.01.2015 passed in M.V.O.P.No.15/2012 on the file of Motor Accidents Claims Tribunal-cum-XII Addl.District Judge, Vijayawada.

41. In the result, the appeal is allowed with costs, by setting aside the order and decree dated 05.01.2015 passed in M.V.O.P.No.15/2012 on the file of Motor Accidents Claims Tribunal-cum-XII Addl.District Judge, Vijayawada, holding that the claimants are entitled to a compensation of Rs.16,62,000/- (Rupees Sixteen Lakhs, Sixty Two Thousand only) with interest @ 7.5% p.a. from the date of petition, till the date of deposit. The respondents No.1 to 3 are jointly and severally liable to pay the compensation amount to the appellants.

42. The 3rd respondent/Insurance Company is directed to deposit the compensation amount of Rs.16,62,000/- (Rupees Sixteen Lakhs,

Sixty Two Thousand only), along with accrued interest thereon, within six (08) weeks from the date of judgment.

43. On such deposit, the 1st Appellant/1st claimant being the wife of deceased is entitled to an amount of Rs.8,62,000/- (Rupees Eight Lakhs and Sixty Two Thousand only) and she is permitted to withdraw the said amount along with accrued interest thereon.

44. The Appellants No.2 and 3/claimants No.2 and 3 being the minor children of the deceased are entitled to an amount of Rs.3,00,000/- (Rupees Three Lakhs only) each and the said amount of Rs.3,00,000/- each, shall be deposited in any nationalised bank, till the Appellants No.2 and 3 attains majority, and after attaining majority, the Appellants No.2 and 3/claimants No.2 and 3 are permitted to withdraw Rs.3,00,000/- (Rupees Three Lakhs only) each, along with the accrued interest thereon.

45. The 4th Appellant/4th claimant being the mother of deceased is entitled to an amount of Rs.2,00,000/- (Rupees Two Lakh only) and she is permitted to withdraw the said amount along with accrued interest thereon.

46. The appellants/claimants are directed to pay the required court fee before the Tribunal, as per Rule 475(2) of A.P.M.V. Rules 1989, within one month from the date of receipt of certified copy of judgment.

47. As a sequel, miscellaneous applications pending, if any, shall stand closed.

48. Before parting with the judgment, this Court is of the opinion that learned Motor Accident Claims Tribunals are disposing of the claim petitions filed U/s.163-A or U/s.166 of M.V. Act 1988, in cryptic manner, ignoring the principles laid down by the Hon'ble Apex Court in the above stated cases. As a result, claimants are forced to file appeals before the High Court. Such casual approach and cryptic disposals leading to delays in disposal of the claims under Motor Vehicles Act, adding some more pain to the trauma and tragedy already sustained by the claimants.

49. In those circumstances, this Court deem it necessary that the copy of this judgment be circulated to the Motor Accident Claims Tribunals, in the State of Andhra Pradesh, for their guidance pertaining to the principles to be followed, while appreciating the evidence placed before Tribunals, to prove rash or negligence act of the drivers of the offending vehicles.

50. Hence, the Registrar General of this Court, is directed to take necessary steps forthwith for circulating copy of this judgment to all the Motor Accident Claims Tribunals in the State of Andhra Pradesh.

B.V.L.N. CHAKRAVARTHI, J

12.12.2023

psk

L.R. Copy is to be marked.

B/o. psk.

HON'BLE SRI JUSTICE B.V.L.N. CHAKRAVARTHI

M.A.C.M.A.No.307 OF 2015

Note: Mark L.R. Copy
psk.

12th December, 2023

psk

o/pcell.

PRL. DISTRICT COURT : WEST GODAVARI : ELURU : DT. 18.01.2024

Communicated to all the Judicial Officers working in the District Judiciary, for information.

C. Ramakrishna Rao
PRL. DISTRICT JUDGE,
W.G., ELURU.

Copy to :

All the Judicial Officers in the District Unit.

The Chairman, PLAPUS, Eluru.

The Secretary, District Legal Services Authority, Eluru.

The Superintendent (P.Tr.,) and Accounts Section, Principal District Court, W.G., Eluru.

The Incharge System Officer, eCourts project, Principal District Court, Eluru is directed to upload the same in the official website of District Court and send **emails** to all the Courts and Officers.

DIS NO. 409
DATE 19-1-24