

**HIGH COURT FOR THE STATE OF TELANGANA  
AT HYDERABAD**

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**MACMA No. 2482 OF 2008**

Between:

United India Insurance Company Limited ... Appellant/R2

And

1.Smt.Gajjela Laxmamma  
2.Gajjela Goverdhan Reddy  
3.Gajjela Narender Reddy

...Respondents/claimants

4. Sri A.Koti Reddy

... Respondent No.4/R1

DATE OF JUDGMENT PRONOUNCED: 19.06.2024

Submitted for approval.

**THE HON'BLE SRI JUSTICE K.SURENDER**

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|---|--|--------|
| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reporters/Journals     | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

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**K.SURENDER, J**

**\* THE HON'BLE SRI JUSTICE K. SURENDER**

+ MACMA No. 2482 OF 2008

% Dated 19.06.2024

# United India Insurance Company Limited ... Appellant/R2

And

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2.Gajjela Goverdhan Reddy  
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**! Counsel for the Appellant:** Sri A.Ramakrishna Reddy

**^ Counsel for the Respondents:** Smt.K.Lalitha for R1 to R3  
Sri Chandrasekhar Reddy Gopireddy

**>HEAD NOTE:**

**? Cases referred**

<sup>1</sup> (2021) 16 SCC 467

<sup>2</sup> (2017) 16 SCC 680

<sup>3</sup> (2009) 6 SCC 121

**HON'BLE SRI JUSTICE K.SURENDER****MACMA.No. 2482 OF 2008****JUDGMENT:**

1. This appeal is filed by the United India Insurance Company Limited, questioning the grant of compensation to the claimants by the Tribunal, mainly on the ground that according to the charge sheet filed by the Police after investigation, the deceased was shown as accused who caused accident and the case was abated on account of his death. Since the police investigation did not reveal the complicity of the insured vehicle and its driver, the question of fastening liability on the insurer does not arise.

2. Briefly, the case of the claimants is that the deceased and his friend-PW3 were going on motorcycle from Nidamanoor to Miryalaguda and about 8.30 p.m., the motorcycle dashed against the stationed Tractor and Trailer bearing No.AIC 2240. On account of the impact, the deceased was taken to hospital and he died while undergoing treatment in the hospital.

3. Learned Tribunal Judge having examined PWs.1 to 3 and marking Exs.A1 to A8 found that the deceased died due to the negligence of the driver of the Tractor and Trailer and accordingly claimants entitled for compensation.

3. Learned Counsel appearing for Insurance Company would submit that the Tractor was stationary on the road on account of a flat tyre. The stationary vehicle was hit by the deceased resulting in the accident and the consequent death. The Police having gone to the scene of offence and examining witnesses found that the accident was caused on account of the negligent and rash driving of the deceased. Once the investigation reveals that the deceased was at fault while driving the two wheeler and dashed against the stationary tractor, the question of granting compensation holding the driver of the Tractor responsible and asking the insurer of the Tractor to pay compensation is illegal and contrary to the evidence on record. Accordingly, the counsel for the appellant-Insurance Company sought to set aside the finding of the Tribunal in granting compensation to the claimants.

4. On the other hand, learned counsel appearing for the claimants would submit that once the vehicle is parked on the road without any indication, even according to the Honourable Supreme Court in several decisions, if the stationary vehicle on the road has not put up any lights or indication to suggest to the vehicles plying on the road that there is a stationed vehicle on the road, compensation should be granted. He further, argued that in view of the Judgment of the Honourable Supreme Court in

***Surekha v. Santosh***<sup>1</sup> held that if the Court finds that the amount of compensation can be enhanced, the same can be done without cross-appeal.

5. It is admitted that the Tractor was parked on the left side of the road without any indicators or lights to enable drivers of the vehicles on the road to identify and take caution regarding the stationed vehicle and accordingly maneuver their vehicles. In the absence of any such indication, the drivers of the vehicles on the road will not expect any stationary vehicle when the traffic is moving. It is not expected that driver of any vehicle to react to a stationary vehicle on the road suddenly, which is parked without any caution or indication.

6. Though, the Police have investigated the case and filed report, that itself cannot form basis for a competent court to adjudicate on the circumstances of an accident and grant or refuse compensation accordingly. The investigation done by the Police Officer is not final, but, subject to verification by the Court and on facts, the Court can always draw its own conclusions. The argument of the learned counsel appearing for the Insurance

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<sup>1</sup> (2021) 16 SCC 467

Company that investigation of a Police Officer is final, cannot be accepted.

7. The driver of the Tractor has parked his vehicle on the road without any indication which resulted in the deceased ramming into the vehicle and consequently dying on account of injuries. It cannot be said that the deceased was at fault in the present circumstances.

8. The Honourable Supreme Court in the Judgment of ***Surekha v. Santosh (supra)*** held that it is well-settled 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, even in the absence of cross appeal by the claimants.

9. In view of the aforesaid Judgment of the Honourable Supreme Court the claimants are entitled to the following compensation;

10. It was specifically mentioned that the deceased was working in the Agriculture Department and earning a net salary of Rs.10,749/- per month. As such, it can be concluded that an

amount of Rs.10,749/- per month can be taken as the income of the deceased. In view of the law laid down by the Honourable Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others**<sup>2</sup>, future prospects @ 10% of the income of the deceased has to be added which comes to Rs.1,074/-. The total income comes to Rs.11,823/-. The annual income of the deceased comes to Rs.1,41,876/-p.a. (11,823 x 12). Since the dependents are 3 in number, 1/3 of the income i.e. Rs.47,292/- (1,41,876x1/3) has to be deducted towards personal expenses which comes to Rs.94,584/-p.a.(1,41,876-47,292). As per the Service Register of the deceased, the deceased was aged 56 years on the date of accident. Then, as per the Judgment of Honourable Supreme Court in **Sarla Verma v. Delhi Transport Corporation**<sup>3</sup> the relevant multiplier for the age group of 56-60 is '9' and then the loss of income due to the death of the deceased comes to Rs.8,51,256/- (94,584 x 9).

11. As per the decision of the Constitutional Bench of Apex court in case of **Pranay Sethi's case**, the conventional heads namely loss of estate, loss of consortium and funeral expenses should be Rs.15,000/-, Rs.40,000/- and Rs.15,000/-, respectively and the

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<sup>2</sup> (2017) 16 SCC 680

<sup>3</sup> (2009) 6 SCC 121

same should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10%. Then the total consortium granted to wife and mother comes to Rs.96,800/- (40,000 x 2 + 10% for every three years) and Loss of Estate and funeral expenses comes to Rs.36,300/- (15,000 + 15,000 + Add 10% for every three years).

12. In total claimants are entitled to a total amount of compensation of Rs.9,84,356/- ( 8,51,256 + 96,800 + 36,300).

13. Accordingly, the appeal filed by the Insurance Company is dismissed, making the Owner and Insurance Company of the Tractor and Trailer jointly and severally liable to pay compensation to the claimants.

14. Accordingly, the compensation granted by the Tribunal to the claimant is enhanced from Rs.4,26,760/- to Rs.9,84,356/- with interest @ 7.5% on the enhanced amount from the date of petition till realization payable by respondents 1 and 2 in the OP. amount shall be deposited within 6 weeks from the date of receipt of a copy of this order. The said amount of Rs.9,84,356/ shall be apportioned among the claimants in the same proportion in which original compensation amounts were directed to be apportioned by the Tribunal and the claimants are permitted to withdraw their



respective shares without furnishing any security. The claimants have to pay the deficit Court fee or the Tribunal may deduct the amount required for the purpose of Court fee from the amount awarded to the claimants after respondents Insurance Company deposits the amount.

As a sequel, miscellaneous applications, if any, pending in this appeal shall stand closed.

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**K.SURENDER, J**

Date: 19.06.2024

Note: L.R. copy to be marked

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