

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

M.A.C.M.A.No.3115 OF 2008

Between:

Sunkari Sammakka, W/o. Late. Sunkari Sanjeeva Reddy,
aged about 42 years, Occ: House-hold and others

...Appellants

And

B. Shyam Sunder, S/o. Sathaiah,
aged about 38 years, Occ: Business,
R/o. H.No.4-2-144, Kothur, Hanamkonda,
Warangal District and another

... Respondents

DATE OF JUDGMENT PRONOUNCED: 29.04.2024

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 |

K. SURENDER, J

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

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% Dated 29.04.2024

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... Respondents

! Counsel for the Appellants : Sri B. Harinath Rao

^ Counsel for Respondent No.2: Ms. P. Satya Manjula

>HEAD NOTE:

? Cases referred

¹ (2011) 13 SCC 236

² (2017) 16 SCC 680

³ (2009) 6 SCC 121

⁴ 2023 (1) ALD 107 (SC)

THE HON'BLE SRI JUSTICE K. SURENDER**M.A.C.M.A.No.3115 of 2008****JUDGMENT:**

This appeal is preferred by the appellants - claimants aggrieved by the refusal of the Tribunal to grant compensation on account of death of the deceased viz., Mr.Sanjeeva Reddy.

2. Heard. Perused the record.

3. The case of the claimants is that the FIR was lodged by PW-2 on 15-07-2002, which is a Telugu written complaint stating that while the deceased and another were going on two wheeler offending vehicle, which is Hero Honda motorcycle had hit the scooter. Due to which, the deceased / pillion rider fell down, received injuries and resulting in death in the hospital. PW-2 was driving another vehicle behind the scooter, which met with an accident on which Mr.Sanjeva Reddy was pillion rider. The Tribunal having recorded the evidence found as follows:

1. First on the printed proforma of the FIR at Column No.3(a) the occurrence of the offence was stuck off and written as 'Sunday'. On information received at the Police Station, it was altered as 15-07-2002.
2. The hospital records of Mr.Sanjeva Reddy reflects that the history of the accident as fall from scooter when hit against a Tractor under Ex.X-1.
3. The other person, who was travelling on a scooter namely Mr.Ranga Reddy's case sheet reflects that he was alleged to have been hit when he was going on two wheeler but hit the electric pole on 14-07-2002 at Hanumakonda X-Roads.

For the said discrepancies in the FIR and the reasons given in the case sheets of Mr.Sanjeva Reddy and Mr.Ranga Reddy, the Tribunal found that the claimants did not prove the death of Mr.Sanjeva Reddy and denied compensation.

4. Learned counsel appearing for the Insurance Company would submit that there are corrections in the FIR and there are 3 different versions given in the FIR, case sheet of Mr.Sanjeva Reddy and version of case sheet of Mr.Ranga

Reddy. The refusal of the Tribunal is correct. The claimants failed to prove that in fact the accident has taken place as alleged by them.

5. Having gone through the FIR, the Telugu written complaint given by PW-2 does not have any corrections. It is clearly stated in the narration of the complaint that the deceased Mr.Sanjeva Reddy and Mr.Ranaga Reddy were travelling on one scooter and the offending motorcycle, which is Hero Honda was coming in opposite direction and hit the scooter. PW-2 was travelling on another scooter. In the complaint the delay is explained as injured were taken to hospital.

6. Police filed FIR after receipt of complaint. FIR is printed proforma on which the details of the complaints are written. Police have made corrections regarding date as Sunday and date on which the information was received as 15th. Though there is tampering on the printed proforma, which is printed by the Police personnel, the Telugu written complaint of PW-2

does not have corrections in the entire complaint and it is specifically endorsed by the Police that the complaint was received on 15-07-2002 at 8.45 P.M.

7. On the basis of the entries made by the Police the complaint cannot be disbelieved. The accident has taken place and there is a clear narration giving details of all the two wheelers involved and the persons who are present at the scene.

8. The version given in the hospital MLC of the deceased Mr.Sanjeva Reddy is that the vehicle had hit a Tractor. The Doctor who had written the said endorsement and the person who has given the said details are not examined. Same is the case sheet of Mr.Ranga Reddy, the other person who was injured.

9. In absence of Insurance Company proving that who were the persons, who had given information when the accident had taken place, the version written in the case

sheets, in absence of examining either the Doctor or treating Doctor of the person, who had written the reasons, cannot be made basis to refuse the compensation. It is a case where two persons were seriously injured and one died.

10. In the said circumstances, when the said two persons were taken to two different hospitals it is not known as to who had carried the said persons to the said hospitals and who had informed regarding the said accident to the Doctors. The person who was present at the scene was examined as PW-2 before the Tribunal. He lodged complaint on the very next day giving reasons for the delay. Further the details of the vehicles are also given in the complaint. When it is not known as to when the hospital records were written and the Doctor who has written them is not examined, the version stated in the complaint, registered as FIR, which has no corrections cannot be overlooked on the ground that different versions were written in the hospital records for the above stated reasons.

11. As already discussed, the Doctors were not examined and it is not known as to when the said endorsement regarding the history of the accidents were made and whether it is on the date of accident or subsequent. Accordingly, the finding of the Tribunal refusing compensation on the basis of corrections in printed format of FIR, version recorded in the case sheets of the deceased and another person is incorrect and accordingly it is hereby set aside.

12. In view of the law laid down by the Hon'ble Apex Court in ***Ramachandrappa v. Manager, Royal Sundaram Alliance Insurance Company Limited***¹ case, the notional income of a daily wage labour was considered and taken at Rs.4,500/- per month without proof of income. In view of the same, the notional income of the deceased in the present case can be considered as Rs.4,500/- per month.

13. In view of the law laid down by the Hon'ble Apex Court in ***National Insurance Company Limited v. Pranay Sethi***

¹ (2011) 13 SCC 236

and others² case, future prospects @ 40% of the income of the deceased has to be added which comes to Rs.6,300/- per month (4500+1800). Then the total income of the deceased per month is Rs.6,300/-. The annual income of the deceased comes to Rs.75,600/-p.a. (6,300 x 12). Since the dependents are 4 members, 1/4 of the income i.e. Rs.18,900/- (75,600/4) has to be deducted towards personal expenses which comes to Rs.56,700/-p.a., (75,600-18,900).

14. In view of the decision of the Hon'ble Apex Court in **Sarla Verma and others v. Delhi Transport Corporation and another³ case**, when the age of the deceased was 48 years at the time of the accident, the appropriate multiplier is '13'. Adopting multiplier '13', his total loss of earnings would be Rs.7,37,100/ (56,700 x 13).

15. As per the decision of the Hon'ble Apex Court in **Anjali and others v. Likendra Rathod and others⁴ case**, the

² (2017) 16 SCC 680

³ (2009) 6 SCC 121

⁴ 2023 (1) ALD 107 (SC)

conventional heads namely loss of consortium to wife (44,000), loss of consortium to three children (1,32,000), funeral expenses (16,500) and loss of estate (16,500) should be awarded to Rs.44,000/-, Rs.1,32,000/-, Rs.16,500/- and Rs.16,500/- respectively.

16. In total, appellants / claimants are entitled to a total amount of compensation as follows:

Sl. No	Head	Awarded by the Tribunal	Awarded by this Court
1.	Loss of income	3,07,200	7,37,100
2.	Consortium to wife	10,000	44,000
3.	Consortium to 3 children	10,000	1,32,000
4.	Loss of estate	10,000	16,500
5.	Funeral expenses	2,000	16,500
6.	Pain and suffering and medical expenses	5,800	20,000
	TOTAL	3,45,000	9,66,100

17. Accordingly, this M.A.C.M.A. is allowed setting aside the order dated 25-01-2007 in O.P.No.131 of 2004 granting compensation of Rs.9,66,100/- to the appellants – claimants

with interest @7.5% from the date of petition till realization payable by respondent Nos.1 and 2 in O.P.No.131 of 2004, within a period of six weeks from the date of receipt of a copy of this order. 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 respondent Nos.1 and 2 deposits the amount. On such deposit, the appellants / claimants are permitted to withdraw the entire amount without furnishing any security. There shall be no order as to costs.

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

K. SURENDER, J

April 29, 2024

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Note: L.R. copy to be marked.

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