



**THE HONOURABLE SRI JUSTICE K.SURENDER**

**M.A.C.M.A.NO.3296 OF 2008**

%Dated 02.07.2024

# 1. Panthangi Pedda Muthaiah S/o. Veeraiah, Aged 55 Years,  
Occ: Coolie, R/o. Kothagudem (V), Khammam Urban (M),  
Khammam District and another. **...Appellants**

**AND**

\$ 1. Kathi Subba Rao S/o. Laxmanaiah, Aged 30 Years, Occ: Driver,  
R/o. Dhamsalapuram (V), Khammam Urban (M), Khammam District  
and 2 others. **...Respondents**

**! Counsel for Appellants:**

1. Sri Kowturu Pavan Kumar, learned Counsel.

**^ Counsel for Respondents:**

1. Karri Murali Krishna, learned counsel.

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? Cases referred:

**THE HONOURABLE SRI JUSTICE K.SURENDER****M.A.C.M.A. NO.3296 OF 2008****JUDGMENT:**

This appeal is preferred by the claimants being aggrieved by the judgment and decree dated 19.08.2005 passed in M.A.T.O.P.No.439 of 2000 by the Motor Accidents Claims Tribunal II Additional District Judge, (FTC-1), Khammam (for short 'the Tribunal'), whereby the Tribunal has refused to grant compensation on the ground that the deceased was not travelling in the insured tractor, which is the offending vehicle.

2. The case of the claimants is that, while the deceased was travelling in the tractor along with paddy load, the driver of the said vehicle drove the vehicle in a rash and negligent manner, as a result, the deceased fell down and sustained fatal injuries and died instantaneously. The deceased was working as Gumastha and was earning Rs.1,200/- per month as salary.

3. Charge sheet was filed by the Police against the

driver of the tractor for the offence under Section 304-A of IPC for causing death by rash and negligent driving. During the course of trial in the criminal Court, the witnesses turned hostile to the prosecution case, resulting in acquittal of the driver of the offending vehicle. On the basis of the said acquittal, the Tribunal found that the deceased boarded the tractor without the knowledge of the driver and jumped off the tractor, resulting in injuries and instantaneous death.

4. It is nobody's case that the deceased had jumped off the tractor without the knowledge of the driver. The Tribunal cannot come up with its own narration when it is not the case of either the claimant or the respondent. In the said circumstances, the finding of the Tribunal that the driver of the offending vehicle, which is the tractor, has not caused the accident and insurer is not liable to pay compensation is hereby set aside. The hostility of witnesses in criminal case resulting in acquittal of driver of offending vehicle cannot form basis to deny compensation by the Tribunal, when the version stated before it is convincing and probable.

5. Having regard to the facts and circumstances of the case, this Court deems it appropriate to consider the income of the deceased at Rs.1,200/- per month and accordingly, the compensation has to be granted.

6. Insofar as the deduction towards personal and living expenses is concerned, the deceased was bachelor and survived by parents, therefore, total dependents are two (02). As per the decision of the Hon'ble Supreme Court in **Sarla Verma and others v. Delhi Transport Corporation and another**<sup>1</sup>, the standard deduction towards personal and living expenses of the deceased should be one-half.

7. In **National Insurance Company Limited v. Pranay Sethi and others**<sup>2</sup>, the Hon'ble Apex Court at paragraph 59.4 held that in case the deceased was self-employed, additionally 40% of income should be awarded towards future prospects, where the deceased age was 19 years. Since the age of the deceased at the time of the

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<sup>1</sup> (2009) 6 SCC 121

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

accident was 19 years, 40% of monthly income of the deceased can be taken towards future prospects.

8. With regard to the multiplier, as per the decision of the Hon'ble Supreme Court in **Sarla Verma** (1 supra), the appropriate multiplier in the present case is '18', as the deceased age falls under the age groups of 15 to 20.

9. The Hon'ble Supreme Court in **Anjali and others v. Lokendra Rathod and others**<sup>3</sup>, decided on 06.12.2022, taking into consideration the decision of **Sarala Verma** (supra) and also the case of **Pranay Sethi** (supra) and also taking into consideration the rise in expenditure and cost of living, has awarded a sum of Rs.44,000/- towards loss of consortium.

10. In view of the above discussion, the compensation amount is granted as under:

Sl.No.	Head	Compensation awarded
1	Income	<b>Rs.1,200/- per month (Rs.14,400/- per annum)</b>
2	Future prospects	<b>Rs.5,760/-</b> (40% of income)
3	Total income	<b>Rs.20,160/-</b>
4	Deduction towards personal expenses	<b>Rs.10,080/-</b> (i.e., 1/2 of total income )
5	Net Income	<b>Rs.10,080/-</b> -(i.e.,Rs.20,160/- (-) Rs.10,080/-)

<sup>3</sup> 2023(1) ALD 107(SC)

6	Multiplier	<b>18</b>
7	Loss of dependency	<b>Rs. 1,81,440/-</b> (i.e., Rs.10,080/- x 18)
8	Consortium(Rs.44,000/- x 2)	<b>Rs.88,000/-</b>
9	Funeral expenses	<b>Rs.15,000/-</b>
10	Loss of estate	<b>Rs.15,000/-</b>
	<b>Total compensation to be paid:</b>	<b>Rs.2,99,440/-</b>

11. At this stage, the learned Standing Counsel for the Insurance company submits that the claimants claimed only a sum of Rs.2,00,000/- as compensation and the quantum of compensation which is now awarded would go beyond the claim made which is impermissible under law.

12. In view of the Judgments of the Hon'ble Apex Court in *Laxman @ Laxman Mourya Vs. Divisional Manager, Oriental Insurance Company Limited and another*<sup>4</sup> and *Nagappa Vs. Gurudayal Singh*<sup>5</sup>, the claimants are entitled to get more amount than what has been claimed. Further, the Motor Vehicles Act being a beneficial piece of legislation, where the interest of the claimants is a paramount consideration the Courts should always endeavour to extend the benefit to the

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<sup>4</sup> (2011) 10 SCC 756

<sup>5</sup> 2003 ACJ 12 (SC)

claimants to a just and reasonable extent.

13. In the result, the appeal is allowed granting compensation amount of Rs.2,99,440/- with interest at 7.5 % per annum from the date of petition till the date of realization. The aforesaid amount shall be payable by the respondents jointly and severally within a period of two (2) months from the date of receipt of a copy of this judgment. On such deposit, the claimants are permitted to withdraw the amount equally without furnishing any security. However, the claimants are directed to deposit the deficit Court fee, if any. There shall be no order as to costs.

Miscellaneous applications, pending if any, shall stand closed.

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**JUSTICE K.SURENDER**

Date: 02.07.2024  
NDS/RRK