

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

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**MACMA No.1794 OF 2010**

Between:

The New India Assurance Company Limited,  
Branch Office, Sanghamitra Bank Complex,  
Prakasham Bazar, Nalgonda Town and District,  
Rep. by its Branch Manager.

... Appellant/Respondent No.2

And

1. Vanam Madhavi, W/o: Late Sridhar,  
Age:24 years, Occ: Household.
2. Vanam Pranay Sai S/o: Late Sridhar,  
Age:4 years, Occ: Student.
3. Vanam Rangamma W/o: Anjaneyulu,  
Age:45 years, Occ: Household.

All are residents of Huzurnagar village and mandal,  
Nalgonda District.

Presently residing at H.No.5-7-106, Prakasham  
Bazar, Nalgonda District.

Respondent No.2 is being minor, rep., by his mother  
and Natural guardian Vanam Madhavi, Respondent  
No.1.

... Respondents/Petitioners

4. K. Malli Babu S/o: Kondal Rao, Age: Major,  
Age: Major, R/o: H.No.5-6-106/C/A, Bottuguda,  
Nalgonda town and district, Owner of the Mini lorry  
bearing No.AP 5X 2759.

... Respondent/Petitioner

DATE OF JUDGMENT PRONOUNCED: 14.03.2024

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.1794 of 2010

% Dated 14.03.2024

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Nalgonda town and district, Owner of the Mini lorry  
bearing No.AP 5X 2759.

... Respondent/Petitioner

**! Counsel for the Appellant:** Smt. I Maamu Vani

**^ Counsel for the Respondent Nos.1 to 3:** Smt K. Rajitha

**>HEAD NOTE:** -Nil-

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

**M.A.C.M.A No.1794 OF 2010**

**JUDGMENT:**

1. Aggrieved by the award dated 05.08.2010 in O.P.No.502 of 2017 passed by the Motor Accidents Claims Tribunal-Cum-Principal District Judge, Nalgonda, the Insurance Company has filed the present appeal.

2. Heard I.Mamu Vani, learned counsel for the appellant/Insurance Company and Smt K.Rajitha, learned counsel for the respondent Nos.1 to 3/claimants.

3. The claimants are the dependents of the deceased. Briefly, the case is that one lorry bearing No.AP 5X 2759 driven by its driver in a rash and negligent manner hit and ran over the deceased while he was going on motorcycle, as a result of which the deceased, received grievous injuries and died on the spot.

4. Initially, the case was registered as hit and run case. However, subsequently the driver of the vehicle was identified and charge sheeted. In the charge sheet, the eye witness in

the present case who is Pw.2 namely Samudrala Raju was shown as cleaner of the lorry bearing No.AP 5X 2759 which is the offending vehicle involved in the accident.

5. The main contention of the learned counsel for the Insurance Company is that the trial Court had acquitted the driver of the vehicle in the proceedings against him for the offence under Section 304(A) of IPC. The Judgment clearly stated that there was no evidence that the driver was involved in the said accident. For the said reason, the compensation that was granted by the trial Court has to be set aside or in the alternative half of the compensation amount which was already deposited and withdrawn by the claimants, this Court may restrict to that extent. The Insurance Company will not claim the amount which was given to the claimants and accordingly prayed to allow the appeal.

6. The Tribunal on the basis of the evidence of Pw.2 who was the cleaner of the lorry being eye witness to the said accident, based its finding for grant of compensation to the claimants, who are the dependants of the deceased.

7. Pw.2/Samudrala Raju who was examined is cited as Lw.5 in the charge sheet. His description was written as cleaner of the lorry bearing No.AP 5X 2759. However, the said witness was not examined by the prosecution during the course of trial before the criminal Court.

8. Having shown the said person as cleaner of the lorry in the charge sheet, the prosecution had not taken any steps to examine him before the criminal Court, resulting in the acquittal of the driver.

9. In the said circumstances, it cannot be said that the offending vehicle was not involved. In a criminal case to convict the accused, proof has to be beyond reasonable doubt. Due to the prosecution's failure to Pw.2/Samudrala Raju, who was cited in the charge sheet, resulted in the acquittal. In the said circumstances, it cannot be said that the finding of the tribunal granting compensation is incorrect, on the basis of evidence of Pw.2 eye witness. Acquittal in the criminal case has no bearing on the finding of the Tribunal in the present circumstances.

10. Hence, I am not inclined to interfere with the discretion of the Tribunal which had occasion of observing the victim and also other circumstances in the case.

11. Accordingly, the Motor Accident Civil Miscellaneous Appeal is dismissed. At the time of admission of the Appeal, this Court directed the Insurance Company to deposit 50% of the awarded amount. In view of the finding of this Court dismissing the Appeal filed by the Insurance Company, the Insurance Company is directed to deposit the remaining amount within a period of (08) weeks from the date of receipt of copy of judgment. Needless to say, on such deposit, claimant is entitled to withdrawn the entire amount without furnishing any security, including 50% of the amount already deposited. No costs.

Miscellaneous applications, if any pending, shall stand closed.

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**K.SURENDER, J**

Date : 14.03.2024  
mmr

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

**M.A.C.M.A No.1794 OF 2010**  
**Dt.14.03.2024**

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