

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

MACMA No.629 OF 2010

Between:

The New India Assurance Company Limited,
Rep. by its Branch Manager, Basheerbag,
Hyderabad, through the local Branch at
Khammam, vide its cover Note No.480293/2004
Valid from 12.02.2005 to 11.02.2000

... Appellant/Respondent No.2

And

1. K. Vani, W/o Sambaih,
Age Major, Occ: Owner of Auto bearing No.
AP20-W-2766, R/o Duginepalli Village,
Pinapaka Mandal, Khammam District

... Respondent/Respondent

2. Tukkani Rami Reddy S/o Verra Reddy,
Age 55 years, Occ: Agriculture,
R/o. Ramachandrapuram, Aswapuram Mandal,
Khammam District

... Respondent/Petitioner

DATE OF JUDGMENT PRONOUNCED: 18.03.2024

Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

- 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
+ MACMA No.410 of 2006

% Dated 18.03.2024

The New India Assurance Company Limited,
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Age 55 years, Occ: Agriculture,
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Khammam District

... Respondent/Petitioner

! Counsel for the Petitioner: Smt. I Maamu Vani

^ Counsel for the Respondent No.2: Sri K. Pavan Kumar

>HEAD NOTE:

¹ (2011) 13 SCC 236

² 2017 (6) 170 (SC)

THE HON'BLE SRI JUSTICE K.SURENDER

M.A.C.M.A.No.629 of 2010

JUDGMENT:

This is an appeal preferred by the appellant-Insurance Company questioning the order dated 28.03.2009 passed in M.A.T.O.P.No.870 of 2005 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-V Additional District Judge (FTC) at Khammam.

2. Heard Smt. I Maamu Vani, learned counsel for the appellant/Insurance Company and Sri K. Pavan Kumar, learned counsel for the respondent/claimant and perused the entire material on record.

3. The Insurance Company has filed the appeal questioning the grant of compensation by the Tribunal mainly on the ground that the driver of the offending vehicle did not possess valid driving license.

4. The accident and the death of the deceased during to the injuries received, etc. are not disputed by either of the parties. However, the only ground raised by the Insurance Company is that the charge sheet which was filed against the driver of the offending vehicle under Section 304-A of IPC shows that he was also charged for the offence under Section 181

of the Motor Vehicles Act for driving the vehicle without a valid driving license.

5. The learned counsel for the Insurance Company would submit that the charge sheet is a public document and once the charge sheet was laid for the offence under Section 181 of the MV Act, it has to be deemed that the driver did not possess a valid driving license.

6. The charge sheet is a report filed by the police after investigation. The said charge sheet would be the sum and substance of the evidence collected by the Investigating Officer during the course of investigation. In accordance with law, the said allegations leveled in the charge sheet have to be proved before a Court by adducing both oral and documentary evidence. Per se, the charge sheet is no evidence and unless the charge mentioned in the charge is proved before a competent Court, it cannot be said that the allegation made in the charge sheet is true and correct.

7. The judgment of the Trial Court is not produced before this Court nor it is the case of the learned counsel for the Insurance Company that the driver of the vehicle was convicted for the offence under Section 181 of the MV Act for not being in possession of the valid driving

license to drive the vehicle. In the said circumstances, the ground raised by the Insurance Company cannot be sustained.

8. Learned counsel for the claimant submits that the claimant has not filed any appeal. He submits that when the Court has come to the conclusion that the award passed by the Tribunal is not just and reasonable, the Court can enhance without there being appeal filed by the claimant. He submits that the Hon'ble Apex Court in case of *Ramachandrappa Vs. Manager, Royal Sundaram Alliance*¹ has taken the monthly income of the agricultural labourer as Rs.4,500/- without there being any evidence, whereas, in this case, when the claimant has claimed the income of the deceased as Rs.1,00,000/- per annum out of agricultural work, the Tribunal has taken the same as Rs.1,500/- per month. He further submits that the age of the deceased as on the date of accident was 53 years and the compensation of Rs.1,84,000/- granted by the Tribunal is not just and reasonable.

9. The claimant has neither filed any cross objections nor filed a separate appeal questioning the award. Now the Insurance Company is before this Court questioning the quantum of compensation granted in

¹ (2011) 13 SCC 236

favour of the claimant. If the Insurance Company is questioning the quantum of compensation, while considering the said aspect, if this Court finds that the reasonable amount was not granted by the Tribunal, the Motor Vehicle Act being a beneficial legislation, this Court without going into the technicalities can as well enhance the compensation.

10. In this case, as rightly pointed out by the learned counsel for the claimant, the income of the deceased can be taken as Rs.4,500/- per month in the light of the law laid down by the Hon'ble Apex Court in *Ramachandrappa's case (stated supra)*, wherein, the income of a daily labourer is taken as Rs.4,500/- without there being any evidence. Considering the age of the deceased, future prospects at 10% have to be included which comes to Rs.4,950/- and as the dependant is one member, half of the of the income shall be deducted towards personal expenditure which comes to Rs.2,475/- (Rs.4,950X 1/2). Thus the annual contribution of the deceased to the claimant would be of Rs.29,700/- (Rs.2,475X12). If this sum is multiplied with relevant multiplier to the age of the deceased i.e.'11', total comes to Rs.3,26,700/-. Thus, the claimant is entitled to this amount under the head of loss of dependency.

11. As per the evidence available on record, the Tribunal has granted an amount of Rs.20,000/- towards medical expenditure and transport and this Court is not inclined to interfere with the said finding.

12. In the light of the law laid down by the Hon'ble Apex Court in **National Insurance Co. Ltd. Vs. Pranay Sethi**², the claimant is granted Rs.33,000/- towards funeral expenses and loss of estate, Rs.44,000/- towards consortium.

13. Therefore, the claimant is eligible for the compensation as below:

Head	Compensation awarded
(1) Loss of dependency	Rs.3,26,700
(2) Medical expenditure & Transport	Rs.20,000
(3) Funeral expenses and Loss of Estate	Rs.33,000
(4) Loss of spousal consortium	Rs.44,000
Total compensation awarded	Rs.4,23,700

14. In the result, the Motor Accident Miscellaneous Appeal of the Insurance Company is dismissed by enhancing the compensation granted by the Tribunal from Rs.1,84,000/- to Rs.4,23,700/- as hereunder:

² 2017 (6) 170 (SC)

- (a) The enhanced amount shall carry interest at 7.5% p.a. from the date of petition till the date of realization.
- (b) The claimant shall pay the court fee on the enhanced amount of compensation.
- (c) The Insurance Company shall deposit the amount within a period of (8) weeks from the date of receipt of copy of judgment. On such deposit, claimant is entitled to withdraw the entire amount without furnishing any security.

Pending miscellaneous petitions, if any, shall stand closed.

There shall be no costs.

Date : 18.03.2024
gvl

K.SURENDER, J