

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

M.A.C.M.A.No.197 OF 2012

Between:

The Oriental Ins.Co.Ltd.,
Rep. by the Br.Manager,
Nizamabad.

... Appellant/
R.3

And

Pothaganteekista Reddy,
S/o. Veera Reddy, aged-65 years
Occ:Nil and
4 others.

... Respondents/
petitioners

&

M.A.C.M.A.No.1808 OF 2008

Between:

Pothaganteekista Reddy,
S/o. Veera Reddy, aged-65 years
Occ:Nil and
4 others.

... Petitioners/Appellants

And

Sri Inder Kumar Choudary
S/o.Chattar Singh Choudary
and another.

... Respondents

DATE OF JUDGMENT PRONOUNCED:

19.03.2024

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 |

K.SURENDER, J

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

+ M.A.C.M.A.No.197 OF 2012

% Dated 19.03.2024

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Occ:Nil and
4 others.

... Petitioners/Appellants

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Sri Inder Kumar Choudary
S/o.Chattar Singh Choudary
and another.

... Respondents

! Counsel for the Appellant: Sri . N.Mohan Krishna, learned
Standing counsel for the appellant
in MACMA.No.197 of 2012

Sri . S.Surender Reddy, learned
counsel for the appellants
in MACMA.No.1808 of 2008

^ Counsel for the Respondents: Sri . N.Mohan Krishna, learned
Standing counsel for respondent
No.2 in MACMA.No.1808 of 2008

Sri . S.Surender Reddy, learned
counsel for the respondents
in MACMA.No.197 of 2012

>HEAD NOTE:

? Cases referred

¹ 2017(6) ALD 170 (SC)

² 2009(6) SCC 121

³ 2018 Law Suit (SC) 904

THE HON'BLE SRI JUSTICE K.SURENDER**M.A.C.M.A No.197 OF 2012****&****M.A.C.M.A No.1808 OF 2008****COMMON JUDGMENT:**

1. M.A.C.M.A.No.197 of 2012 is filed by the Insurance Company against the Order and Decree dated 16.10.2006 in O.P.No.1442 of 2003 on the file of the Motor Accident Claims Tribunal(District Judge), Nizamabad, where under the Tribunal granted an amount of Rs.6,80,000/- towards compensation along with interest @ 7.5% per annum as against the claim of Rs.20,00,000/- on account of the death of the deceased in the motor vehicle accident occurred on 16.01.2003. M.A.C.M.A.No.1808 of 2012 is filed by the petitioners/dependents of the deceased seeking compensation of Rs.20,00,000/- on account of the death of the deceased in a car accident.

2. Heard learned counsel for the petitioners/claimants/objectors and learned counsel for the respondent-Insurance Company and perused the record.

3. The manner of the accident and the death of the deceased in the said accident is not in dispute. However, the Tribunal found that there was negligence on the part of the Driver of the car in which the deceased was travelling and also the lorry. Accordingly,

the Tribunal had fixed 2/3rd liability on the lorry and 1/3rd liability on the car towards contributory negligence.

4. Learned counsel appearing for the Insurance Company would submit that when the Tribunal has found that there was contributory negligence on the part of the car, it ought to have considered contributory negligence at 50% each. There are no reasons given as to why 2/3rd contributory negligence was attributed to the lorry.

5. As seen from the issues framed, the Tribunal did not frame any issue regarding contributory negligence on the part of the car or the lorry. F.I.R. was filed against the lorry Driver for causing death punishable under Section 304-A of IPC. In the absence of any evidence or proof that was adduced by the Insurance Company, the Tribunal committed an error in concluding that there was contributory negligence on the part of the vehicles. On the ground that no issue was framed and no adequate reasons were given by the Tribunal, the finding that there was contributory negligence on the part of the car is hereby set aside and 100% liability is attributed to the lorry.

6. The Tribunal considered the income of the deceased at Rs.1,00,000/-p.m. which is just and reasonable and cannot be interfered with. Further, the Tribunal did not consider the future

prospects and deducted 1/3rd amount towards personal expenses instead of 1/4th.

7. Accordingly, taking the income of the deceased at Rs.1,00,000/-p.a. and considering 40% future prospects as per the judgment of the Hon'ble Supreme Court in **National Insurance Co. Ltd. Vs. Pranay Sethi**¹, the income of the deceased is arrived at Rs.1,40,000/-p.a.(1,00,000/-+40,000/-) Out of which, 1/4th has to be deducted towards his personal expenses, which comes to Rs.1,12,000/-p.a.(1,40,000-28,000/-). Adopting the appropriate multiplier '15' as per the judgment of the Hon'ble Supreme Court in **Smt.Sarla Varma Vs. Delhi Transport Corporation**², the income of the deceased is arrived at Rs.16,80,000/-p.a.(1,12,000/-x15). Apart from that, the claimants are also entitled for Rs.70,000/- towards conventional charges, as per the ratio laid down by the Hon'ble Supreme Court **Pranay Sethi's case**. In addition, parents and two children are entitled for an amount of Rs.40,000/-each towards loss of filial as per the decision of the Hon'ble Supreme Court in **Magma General Insurance Co.Ltd. Vs.Nanu Ram Alias Chuhru Ram**³. Thus, the total compensation the appellants are entitled to is arrived at Rs.19,10,000/-.

¹ 2017(6) ALD 170 (SC)

² 2009(6) SCC 121

³ 2018 Law Suit (SC) 904

8. In the result, MACMA.No.1808 of 2008 is allowed enhancing the compensation awarded by the Tribunal from Rs.6,80,000/- to Rs.19,10,000/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of petition till the date of realization. The claimants are at liberty to withdraw the amount in accordance with the apportionment directed by the Tribunal without furnishing any security.

9. Consequently, MACMA.No.197 of 2012 stands dismissed. Miscellaneous applications, if any pending, shall stand closed.

Date : 19.03.2024
dv

K.SURENDER, J

THE HON'BLE SRI JUSTICE K.SURENDER

M.A.C.M.A No.197 OF 2008
&
M.A.C.M.A No.1808 OF 2012

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