(2025) 03 TEL CK 0762

In the Telangana High Court

Case No : Macma. No.31 Of 2022

Paladugu Satyavathi and others — APPELLANT

Vs

United India Insurance Company Limited — RESPONDENT

Date of Decision : 21-03-2025

Acts Referred:
- Civil Procedure Code, 1908 — Section 26(1), Order 7 Rule 1
- Specific Relief Act, 1963 — Section 16(c)
- Negotiable Instruments Act, 1881 — Section 138

Citation : (2025) 03 TEL CK 0762

Hon'ble Judges : B.R.Madhusudhan Rao, J

Bench : Single Bench

Advocate : Sandeep Kumar Bodla, Kowturu Pavan Kumar

Final Decision : Allowed

Judgement

B.R.Madhusudhan Rao, J

1. This appeal is filed under Section 173 of the Motor Vehicles Act (for short 'the M.V. Act') by the appellants challenging the Order dated 09.07.2019 passed by the Motor Accidents Claims Tribunal – cum – Judge, Family Court – cum – VI Additional District Judge at Khammam in MVOP.No.861 of 2017.

2. For the sake of convenience, the parties will be hereinafter referred to as claim petitioners and respondents.

3. Petitioner No.1 is the wife and petitioner Nos.2 and 3 are the sons of Paladuga Babu Rao (herein after will be referred as deceased). On 06.06.2017, the deceased was proceeding towards Bheemavaram on his motor-cycle bearing No.AP 16 CX 2522 for servicing of his vehicle, when he reached Madhavanigudem check-post, the driver of the lorry bearing No.AP 16 TB 5496, proceeding in the same direction applied sudden breaks without giving signal and stationed the lorry in the middle of the road on that the deceased dashed the stationed lorry from the back side, fell on the road, received injuries and he was shifted to

Varma Hospital, Bhimavaram, while undergoing treatment he succumbed to injuries on the same day. The accident occurred due to rash and negligent driving of the driver of the Lorry bearing No.AP 16 TB 5496. The deceased worked as Lorry driver and used to earn Rs.30,000/- per month and he was aged about 55 years as on the date of accident. Due to the death of the deceased, the petitioners have lost their earning member which subjected to mental agony and claimed compensation of Rs.30,00,000/- (initially claimed compensation of Rs.20,00,000/- subsequently enhanced to Rs.30,00,000/- vide orders in IA.No.241 of 2019, dated 03.04.2019).

4. Respondent Nos.1 and 2 have contended that the driver of crime vehicle was not holding valid and effective driving license and that the matter of accident was not reported to respondent No.2, the compensation claimed is excessive and exorbitant. The earnings of the deceased is also disputed by respondent No.2 by filing additional counter as there is no document to prove the same.

5. Basing on the rival contentions of the parties, the learned trial Court has framed the following issues:

1. Whether the deceased Paladugu Babu Rao died in the accident dated 06.06.2017 due to rash and negligent driving of the driver of the Lorry bearing Registration No.AP 16 TB 5496?

2. Whether the claim petitioners are entitled for compensation? If so, to what amount, from whom?

3. To what relief?

6. Petitioner No.1 is examined as PW.1 and also examined PWs.2 and 3, got marked Exs.A1 to A6. Respondents did not lead any evidence but got marked Ex.B1/Certified Copy of Insurance Policy.

7. Learned trial Court after analyzing the evidence on record has partly allowed the O.P. against respondent Nos.1 and 2 jointly and severally by awarding an amount of Rs.13,80,000/- together with interest @ 7.5% p.a., from the date of petition till the date of deposit and that respondent Nos.1 and 2 were directed to deposit the compensation amount within one (1) month from the date of the order (09.07.2019). The petitioners were awarded an amount of Rs.4,60,000/- each and they were permitted to withdraw the same.

8. Learned counsel for the appellant/claimants submits that the Tribunal grossly erred in awarding an amount of Rs.13,80,000/-towards compensation @ 7.5% per annum. The deceased was working as a Lorry driver and was earning Rs.30,000/- per month, the Tribunal ought to have appreciated the evidence of PWs.1 to 3 coupled with Exs.A1 to A6. The Tribunal ought to have awarded the compensation as claimed by the appellants. The appellants have challenged the quantum only.

9. Service on respondent No.1 is served on 22.03.2022.

10. Learned counsel for respondent No.2 submits that PW.3 has not produced any material to show that he was paying Rs.30,000/- per month to the deceased. So also the appellants have not filed the

driving license of the deceased and the trial Court has considered Ex.A6 and rightly awarded the compensation.

11. The points arose for consideration are:

1. Whether the Tribunal has rightly assessed the income of the deceased as Rs.15,000/- per month?

2. Whether the compensation awarded is just and reasonable?

Point Nos.1 & 2:

12. The Tribunal has taken the earnings of the deceased as Rs.15,000/- per month in view of the fact that the appellants/claimants have not produced any record. Moreover, it is further observed in the Award that PW.3 has not produced record such as wage/salary register/PF etc., and arrived that the deceased was earning an amount of Rs.15,000/- per month and passed the award as under:

13. Accident has taken place on 06.06.2017. The evidence of PW.1 is that her husband used to work as driver and was earning Rs.30,000/- per month and got marked Ex.P6. PW.3 is the Proprietor/Managing Partner of Sai Baba Transport Company and his evidence is that he has issued Ex.A6 and the salary of the deceased is Rs.30,000/- on the date of the death of the deceased including commission, batta. On perusal of Ex.A6 which goes to show that the driving license number of the deceased is mentioned as License No.3353/K/1980 and the deceased salary is Rs.29,800/- per month including allowances as on 28.05.2017.

14. As the Motor Vehicle Act is a Social Welfare Legislation, taking into consideration the evidence adduced by the appellants/claimants more particularly the evidence of PWs.1 and 3 coupled with Ex.A6, this Court is of the view that the salary of the deceased should be taken as Rs.20,000/- per month.

15. The Supreme Court in National Insurance Company Ltd., Vs. Pranay Sethi and Others (2017) 6 SCC 680 has set out the various amounts to be awarded as compensation in case of death i.e., Future prospects and Conventional heads. The relevant extract of the Judgment is re-produced herein below:

59.4. In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.

59.8. Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years.

16. In Magma General Insurance Company Ltd., Vs. Nanu Ram Alias Chuhru Ram and others (2018) 18 SCC 130, the Supreme Court has explained the meaning and scope of the word consortium which is re-produced herein below.

21. A Constitution Bench of this Court in Pranay Sethi1 dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is loss of consortium. In legal Parlance, "consortium" is a compendious term which encompasses "spousal consortium", "parental consortium", and "filial consortium". The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse.

21.1. Spousal consortium is generally defined as rights pertaining to the relationship of a husband-wife which allows compensation to the surviving spouse for loss of "company, society, cooperation, affection, and aid of the other in every conjugal relation".

21.2. Parental consortium is granted to the child upon the premature death of a parent, for loss of "parental aid, protection, affection, society, discipline, guidance and training".

17. In view of the Law laid down by the Supreme Court in Pranay Sethi and Others1; Nanu Ram Alias Chuhru Ram and Others2, appellants/claimants are entitled for the following amounts:

18. Appellants are entitled for equal shares with interest as specified above, they are permitted to withdraw their respective shares. The amount awarded by the Tribunal towards Advocate fee is however maintained. Hence points are answered accordingly.

19. The Appeal is allowed in Part.

1. The impugned award dated 09.07.2019 passed in M.V.O.P.No.861 of 2017 by the Motor Accidents Claims Tribunal (Judge Family Court – Cum – Additional District Judge) at Khammam stands modified.

2. The compensation awarded by the Tribunal at Rs.13,80,000/- is hereby enhanced to Rs.22,36,044/- together with interest @ 9% P.A. from the date of filing claim petition till payment. Claimants are entitled for equal shares with interest and proportionate costs and they are permitted to withdraw the same.

3. The respondents are hereby directed to deposit the amount with interest and costs, less the amount already deposited if any within a period of 60 days from the date of receipt of the copy of this Judgment.

As a sequel, Miscellaneous application/s, pending if any, shall stand closed. No costs.

