

**IN THE COURT OF THE CHAIRMAN, MOTOR
VEHICLE ACCIDENT CLAIMS TRIBUNAL-CUM-
PRL. DISTRICT JUDGE : KARIMNAGAR**

PRESENT:- SRI B. NAGAMARUTHI SARMA,
CHAIRMAN, MACT-CUM-
PRL. DISTRICT JUDGE,
KARIMNAGAR.

MONDAY, THE 16TH DAY OF MAY, 2016

M.V. O.P. No. 1 OF 2015

Between :-

1. Chinthala Laxmi, W/o Ramulu, aged 40 yrs.,
Occ : Household,
 2. Chinthala Ramulu, S/o Mallaiah, aged 42 yrs.,
Occ : Hotel Business,
 3. Chinthala Anusha, D/o Ramulu, aged 19 yrs.,
Occ : Student,
- All are R/o Kalvasrirampur Village and Mandal,
Karimnagar District.

...PETITIONERS.

A n d

1. Vanga Shekar, S/o Balaram, aged 22 yrs., Occ :
Lorry Driver, S/o Elkatta Village of Kalvakurthy
Mandal, Mahaboobnagar District.
2. Mohd. Yousufuddin, S/o Mohd. Khaja
Moinuddin, aged major, Owner of Lorry bearing
No.AP-16-TW-4066, R/o Plot No.52, 2nd Venture
SBH Colony, Ranga Reddy District.
3. The New India Assurance Co. Ltd., represented
by its Divisional Manager, Divisional Office,
Podduturi Complex, Hanmakonda, Warangal
District (Insurance Policy
No.61320131130100008029 valid from
12.12.2013 to 11.09.2014).

...RESPONDENTS.

PETITION UNDER SECTION 166 (1) (c) OF M.V. ACT

This petition coming on 21.03.2016 before me for final hearing in the presence of Sri K.V. Prasad and Sri K. Manoj Kumar, Advocates for petitioners, Sri G. Srihari, Advocate for respondent No.3 and respondents No1 and 2 having remained exparte, having been heard and having stood over for

consideration till this day, the Court passed the following:-

-: A W A R D :-

This is a petition filed under Sec.166 (1) © of M.V. Act by petitioners claiming a compensation of Rs.10.00 lakhs from respondents No.1 to 3 for the death of Chinthala Ajay, aged 21 years, in a road traffic accident occurred on 14.08.2014, at about 1.30 P.M., near Narayanapoor crossroad.

2.00. The averments of the petition in brief are that petitioners No.1 and 2 are parents and petitioner No.3 is unmarried sister of the deceased Chinthala Ajay. The deceased Ajay was hale and healthy and having completed his graduation, he was working in the hotel of his father besides attending to labour work and getting a sum of Rs.8,000/- per month.

2.01. On 14.8.2014, the deceased Ajay left his village on a motorcycle bearing No.TS-EC-0159 to go to Sulthanabad to attend a marriage of his villager. After attending the marriage, the deceased went to Sulthanabad market and purchased some utensils for their hotel and was returning to his village on the motorcycle. On the way, at about 01.30 P.M., when the deceased reached near Narayanapoor crossroad, respondent No.1 drove the lorry bearing No.AP-16-TW-

4066 in a rash and negligent manner and dashed against the motorcycle of the deceased from opposite direction. As a result, the deceased fell down on the road and sustained fatal injuries and died on the spot.

2.02. Police, Sulthanabad, registered a case in Cr. No.180/2014 under Sec.304-A of IPC., against respondent No.1 and after completion of investigation charge sheet was laid against him and the matter is pending before Judl. Magistrate of 1st Class, Sulthanabad.

2.03. The deceased was aged 21 years at the time of his death and was hale and healthy. Due to the sudden death of the deceased, petitioners lost their source of dependency. Petitioners claim a compensation of Rs.10.00 lakhs.

2.04. Respondent No.1 is the driver, respondent No.2 is the owner and respondent No.3 is the insurer of the offending Lorry. Therefore, respondents No.1 to 3 are jointly and severally liable to pay the above compensation to petitioners.

3.00. Respondents No.1 and 2 remained exparte.

4.00. Respondents No.3/Insurance Company filed the counter denying the manner in which the accident

alleged to have occurred. It is also denied by respondent No.3 that the offending lorry was insured with their insurance company.

4.01. It is further mentioned in the counter that the deceased himself was negligent in riding the two wheeler and was responsible for the accident, and that there was no negligence on the part of respondent No.1 in driving the offending lorry.

4.02. It is further mentioned in the counter of respondent No.3 respondent No.1 does not have a valid driving licence, as such, respondent No.3 is not liable to pay compensation to petitioners.

4.03. The age, avocation and earnings of the deceased as mentioned in the petition are denied by respondent No.3. The compensation claimed by petitioners is excessive and exorbitant.

5.00. Basing on the above pleadings, the following issues were framed for trial on 31.07.2015 :-

1. Whether the accident had occurred due to rash and negligent driving of Lorry bearing No.AP-16-TW-4066 by its driver or due to rash and negligent riding of motorcycle bearing No.TS-EC-0159 by its rider or due to contributory negligence of both of them ?
2. Whether the petitioners are entitled to compensation, if so, to what amount and from which of the respondents ?

3. To what relief?

6.00. There are two witnesses examined and (12) documents got marked on the side of petitioners. Petitioner No.2, Chinthala Ramulu, father of the deceased, was examined as PW.1. One Balasani Komuraiah, an eye witness to the accident, was examined as PW.2. Ext.A-1 is the certified copy of F.I.R. in Cr. No.180/2014 of P.S. Sulthanabad, Ext.A-2 is the certified copy of Inquest Report, Ext.A-3 is the certified copy of Postmortem Examination Report, Ext.A-4 is the certified copy of MVI Report, Ext.A5 is the certified copy of Charge Sheet, Ext.A-6 is the Court fee exemption certificate issued by District Legal Services Authority, Karimnagar, Ext.A-7 is the Certificate issued by Grampanchayath, Srirampur Village, Ext.A-8 is the Secondary School Certificate of the deceased, Ext.A-9 is the Intermediate Pass Certificate of the deceased, Ext.A-10 is the 1st year B.Com., Marks memo of the deceased, Ext.A-11 is 2nd year B.Com., Marks memo of the deceased an Ext.A-12 are Receipts for payment of electricity charges (2 Nos.).

6.01. There is no oral evidence adduced on the side of contesting respondent No.3. Learned counsel for respondent No.3 filed copy of insurance policy and it

was marked as Ext.B-1 by consent.

7.00. Heard arguments from both sides.

8.00. **ISSUE NO.1:-**

Petitioner No.1 is father of the deceased and he was examined as PW.1. He deposed about the death of his son, the deceased Chinthala Ajay in a road traffic accident occurred on 14.08.2014. PW.1 was not an eye witness to the accident. One Balsani Komuraiah, an eye witness to the accident was examined as PW.2 and he deposed that he works in Dhanalaxmi Dharma Kanta (weigh bridge) and on 14.08.2014, at about 1.30 P.M., while he was on duty, one lorry bearing No.AP-16-TW-4066 came to their Dharma Kanta and after giving weighing receipt, the lorry driver drove the lorry in a rash and negligent manner with high speed and proceeded to Rajiv Rahadari and dashed to the motorcycle bearing No.TS-02-0159 due to which, rider of the motorcycle Chinthala Ajay sustained injuries and died on the spot . PW.2 further deposed that he informed about the accident to the family members of the deceased. PW.2 categorically deposed that the accident occurred due to rash and negligent way or driving of the offending lorry by respondent No.1. The

presence of PW.2 at the place of accident cannot be disputed since his name is figured as listed witness No.5/eye witness to the accident in the charge sheet filed by police. In this case, respondents No.1 and 2, i.e. driver and owner of the lorry, remained exparte. Accepting the evidence of PW.2 and also by looking into the contents of documents like F.I.R. (Ext.A-1) and the Charge Sheet (Ext.A.5) filed by the police against the driver of the car, issue No.1 is answered with the finding that the accident prima facie appears to be the result of rash and negligent way of driving of lorry bearing No.AP-16-TW-4066 by respondent No.1 and there was no negligence on the part of the deceased in riding the motorcycle.

9.00. **ISSUE NO.2 :-**

Petitioners claim that the deceased was aged 21 years and was working with petitioner No.1 in their hotel apart from attending to labour work in their village and earning a sum of Rs.8,000/- per month. In the cross-examination, PW.1 deposed that the deceased was a graduate and running a hotel at Kalva Srirampur. PW.1 filed Secondary School Certificate, Intermediate Pass Certificate and 1st and 2nd year Memo of Marks of the deceased to prove the educational qualification of

the deceased, which are marked as Exts.A-8 to A-11 respectively. The marks memos of 1st and 2nd year of the deceased (Exts.A-10 and A-11) show that the deceased failed in some of the subjects. Thus, it is clear that the deceased did not complete his graduation (B.Com.) and he is to be treated as a student. In the further cross-examination, PW.1 deposed that the deceased was helping him in running the hotel. The loss of income suffered by petitioners due to the death of the deceased can be assessed in terms of wages to be paid to a worker employed by them in place of the deceased to assist PW.1 in running the hotel. The services rendered by the deceased in running the hotel by his father (PW.1) can be estimated at Rs.3,000/- per month or Rs.36,000/- per annum, which can be treated as the loss of dependency suffered by petitioners. In Ext.A.8 : Secondary School Certificate of the deceased, his date of birth is shown as 15.06.1993 and thus the deceased was running in 22 years and he can be placed within the age range of 21 to 25 years for which the multiplier applicable is (18). Therefore, petitioners are entitled to a sum of **Rs.6,48,000/-** (Rs.36,000x18) towards compensation for the loss of life and loss of dependency.

10.00. By following the principles laid down in the Judgment rendered by the Hon'ble Supreme Court in the case of *Rajesh and others Vs. Rajbir Singh and others* reported in (**2013 ACJ 1403**), the petitioners are also entitled to a sum of Rs.25,000/- towards funeral expenses and a sum of Rs.75,000/- (Rs.25,000/- each) towards loss of love and affection, totally a sum of **Rs.1,00,000/-** towards non-pecuniary damages. Thus, petitioners are entitled to the following amounts towards compensation under the heads specified as under :-

1	Compensation for loss of life and loss of dependency	:	Rs.	6,48,000-00
2	Loss of love and affection to petitioners No.1 to 3 @ Rs.25,000/- each	:	Rs.	75,000-00
3	Funeral expenses	:	Rs.	25,000-00
Total : ➔			Rs.	7,48,000-00

11.00. Respondent No.3/Insurance Company pleaded in its counter that respondent No.1 was not having a valid driving licence to drive the offending vehicle at the time of accident, but it did not adduce any evidence to prove the same. Ext.B-1 is the copy of insurance policy issued in the name of one T. Mallikarjuna Rao in respect of the offending lorry and he appeared to have sold the said vehicle to respondent No.2. Ext.B-1 insurance policy was valid for the period from 12.12.2013 to 11.09.2014 covering the risk of the offending lorry as on the date of accident that occurred

on 14.08.2014. Respondent No.2 being the owner is vicariously liable for the acts of respondent No.1 and respondent No.3 being the insurer has to indemnify the liability of respondent No.2 by virtue of Ext.B-1 : insurance policy. Therefore, respondents No.1 to 3 are jointly and severally liable to pay the above determined compensation to petitioners. The issue is answered accordingly.

12.00. **ISSUE No.3 :-**

In the result, the petition is allowed in part awarding a compensation of **Rs.7,48,000/-** (Rupees seven lakhs forty eight thousand only) to petitioners with proportionate costs and interest at 7.5% per annum from the date of petition till the date of actual deposit and respondents No.1 to 3 are jointly and severally liable to pay the same. Respondent No.3 is directed to deposit the said amount in to the Court within thirty days from the date of this award.

Out of the said amount, an amount **Rs.4,00,000/-** (Rupees four lakhs only) is apportioned in favour of petitioner No.1, an amount of **Rs.2,00,000/-** (Rupees two lakhs only) is apportioned in favour of petitioner No.2 and an amount of **Rs.1,48,000/-** (Rupees one lakh forty eight thousand only) is apportioned in favour of petitioner No.3.

On such deposit being made, petitioners No.1 to 3 are permitted to withdraw an amount of **Rs.50,000/-** (Rupees fifty thousand only) each and the remaining amount apportioned in their favour shall be kept in fixed deposit in any nationalized bank in their names for a period of three years.

Advocate fee is fixed at Rs.5,000/- (Rupees five thousand) only.

The Office is directed to collect the court fee on the amount of compensation awarded to petitioners, in terms of the agreement, dt.01.12.2014 executed by them before the District Legal Services Authority, Karimnagar.

Dictated to the Stenographer, transcribed by him, corrected and pronounced by me in open Court, on this the 16th day of May, 2016.

Chairman, MACT-cum-
Prl. District Judge,
Karimnagar.

APPENDIX OF EVIDENCE
WITNESSES EXAMINED

FOR THE PETITIONERS:

PW.1 : Chinthala Ramulu.
PW.2 : Balsani Komuraiah.

FOR THE RESPONDENTS:

- None -

EXHIBITS MARKED**FOR THE PETITIONERS:**

Ext.A1	Dt.14.08.2014	C.C. of FIR in Cr.No.180/2014 of P.S., Sulthanabad.
Ext.A2	Dt.14.08.23014	C.C. of Inquest Report.
Ext.A3	Dt.14.08.2014	C.C. of Postmortem Examination Report.
Ext.A4	Dt.--	C.C. of M.V.I. Report.
Ext.A5	Dt.25.08.2014	C.C. of Charge Sheet.
Ext.A6	Dt.01.12.2014	Court Fee Exemption Certificate issued by District Legal Services Authority, Karimnagar.
Ext.A7	Dt.05.01.2016	Certificate issued by Grampanchayath, Srirampur.
Ext.A8	Dt.15.05.2008	Secondary School Certificate of the deceased Chinthala Ajay.
Ext.A9	Dt.25.06.2011	Intermediate Pass Certificate of the deceased Chinthala Ajay.
Ext.A10	Dt.30.07.2012	1 st year (B.Com.) Memo of marks of the deceased Chinthala Ajay.
Ext.A11	Dt.19.06.2013	2 nd year (B.Com.) Memo of marks of the deceased Chinthala Ajay.
Ext.A12	Dt.--	(2 Nos.) Receipts for electricity consumption charges.

FOR THE RESPONDENTS:

Ext.B-1 : Copy of insurance policy.

Chairman, MACT-cum-
Prl. District Judge,
Karimnagar.