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APHC010650222012

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3520]**
(Special Original Jurisdiction)

TUESDAY, THE 25th DAY OF AUGUST 2026

PRESENT

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 2321/2012

Between:

1. PUTTA VEERA VENKATA SATYANARAYAN & 2 OTS, S/O. SATYANARAYANAMURTHY, D.NO. 6-37, OCC: COOLE, RAZOLE VILLAGE ANDMANDAL, E.G. DISTRICT.
2. PUTTA VEERA VENKATA SATYA KRISHNA PRASAD,, S/O. SATYANARAYANAMURTHY, D.NO. 6-37, OCC: COOLE, RAZOLE VILLAGE ANDMANDAL, E.G. DISTRICT.
3. PUTTA NAGA SUDHAKAR,, S/O. SATYANARAYANAMURTHY, D.NO. 6-37, OCC: COOLE, RAZOLE VILLAGE ANDMANDAL, E.G. DISTRICT.

...APPELLANT(S)

AND

1. JAGATHA VEERABHADRA RAO JVB RAO ANO, S/O. LATE SUBBARAYUDU, KAPU R/O. SIVALAYAM STREET, RAZOLE, DRIVER OF RTC BUS BEARING NO. AP10Z 1453, BELONGS TO RAZOLE DEPOT.
2. APSRTC REP BY GENERAL MANAGER, MUSHEERABAD, HYDERABAD.

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Court

Counsel for the Appellant(S):

1. MANGENA SREE RAMA RAO

Counsel for the Respondent(S):

1. VINOD KUMAR TARLADA (SC FOR APSRTC)
2.

The Court made the following:

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

M.A.C.M.A.No.2321 of 2012

JUDGMENT:

Introductory:

1. Claimants in M.V.O.P.No.158 of 2009 on the file of Motor Accidents Claims Tribunal-cum-II Additional District Judge, Amalapuram (for short "the learned MACT"), feeling dissatisfied by the dismissal of their case under the judgment dated 19.04.2012, filed the present appeal.

2. The appellants herein are the claimants and the respondents are the respondents before the learned MACT.

3. For the sake of convenience, the parties will be hereinafter referred to as the petitioners/claimants and the respondents, as per their ranking in the proceedings before the learned MACT.

Case of the petitioners:

4(i). One Putta Adilakshmi (hereinafter referred to as "the deceased") is the wife of the 1st petitioner and the mother of petitioner Nos.2 and 3.

(ii). On 11.02.2008 at about 07:15 a.m., the deceased boarded the A.P.S.R.T.C. bus bearing No.AP 10 Z 1453 (hereinafter referred to as "the offending vehicle") at Razole to travel to Rajahmundry. At about 9:45 a.m., when the bus reached the RTC complex, Rajahmundry and while the deceased was getting down from the bus, the driver moved the bus in a rash and negligent manner without noticing whether all the passengers got down. As a result, the deceased fell down and sustained a fracture to her right hip

joint and also suffered damage to her kidney. Immediately after the accident, the deceased was shifted to a hospital and got first aid. Thereafter, she was shifted to Seshadri Orthopaedic Hospital, Palakol for better treatment.

(iii). On 17.02.2008, the deceased undergone surgery to her right hip joint and was discharged from the hospital on 25.02.2008. Thereafter, on 28.02.2008, the deceased was admitted to Government Hospital, Razole, with a complaint of reflections and on further medical advice, she was shifted to Nemani Kidney Center, Rajahmundry on 28.02.2008, where the doctors referred her to Alert Emergency Hospital, Rajahmundry. She has undergone treatment as inpatient till 05.03.2008. Again, on 10.03.2008, dialysis was done and the doctor found that there was no improvement and that she might not survive for more than one week. The doctor advised that she may be taken to her native place and continue the same medication. But, the deceased died on 18.03.2008.

(iv). The accident occurred due to the rash and negligent driving of respondent No.1, the driver of the bus. Respondent No.2, being the owner, is liable to pay compensation.

(v). The petitioners incurred expenditure of Rs.50,000/- towards medical expenditure and other incidental expenses and lost the valuable support of the deceased. Hence, they are entitled for compensation.

5. Respondent No.1, driver of the offending vehicle remained *ex parte* before the learned MACT.

Case of respondent No.2/ A.P.S.R.T.C:

6. The petitioners shall prove the pleaded accident, the negligence of the driver of the offending vehicle, the death of the deceased due to the accident, age, occupation and income of the deceased, the dependency of the petitioners, the loss of dependency, the medical expenditure incurred and the justification for the quantum of compensation claimed.

Evidence:

For the claimants:

7(i). Claimant No.3 was examined as P.W.1 and the doctors who treated the deceased were examined as P.Ws.2 to 4.

(ii). Further, the claimants relied on Ex.A1-FIR, Ex.A2-Charge Sheet, Ex.A3-Wound Certificate, Ex.A4-Bus Tickets, Ex.A5-Death Certificate, Ex.A6-Medical Bills, Exs.X1 to X5-Medidcal Records relating to the treatment of the deceased.

8. No evidence was adduced on behalf of the respondents.

Findings of the learned MACT:

9(i). P.W.1 ought to have given a report to the R.T.C. authorities or concerned Police immediately after the accident to prove the negligence on the part of respondent No.1. But, after the accident, P.W.1 and the deceased went to Razole with injuries and said to have taken treatment from their family doctor. Ex.A1 report was given to the Police seven days after the accident. Therefore, there exists an amount of doubt.

(ii). The doctor should have registered the case as MLC and informed the same to the nearest police station for necessary action. The report is belated. Therefore, negligence cannot be believed.

(iii). Further, Ex.A3-Wound Certificate shows that the injury was sustained due to falling down while getting down from the bus. Therefore, the complaint of the deceased appears to have been given for the purpose of claiming compensation. Hence, the petition is liable to be dismissed.

Arguments in the appeal:

For the appellant:

10(i). The observation of the learned MACT that negligence proved is not correct.

(ii). P.W.1 clearly stated about the negligence.

(iii). Nothing is elicited on behalf of the respondents.

(iv). The judgment of the learned MACT is not sustainable

(v). The claimants lost the valuable support of the deceased.

(vi). Claimants are entitled for just compensation.

For the respondents:

11. The petition was rightly dismissed by the Court below, as there was delay in lodging the compliant.

12. Heard both sides extensively. Perused the record. Thoughtful consideration is given to the arguments advanced by both sides.

13. Now, the points that arise for determination in this appeal are:

1) Whether the petitioners are entitled for compensation? If so, to what quantum?

2) Whether the dismissal of the claim by the learned MACT under impugned judgment and decree dated 19.04.2012 is sustainable in law and on facts or whether any interference is necessary? If so, on what grounds and to which extent?

3) What is the result of the appeal?

Points Nos.1 and 2:

14. With regard to the delay in lodging FIR, this Court finds it proper to note that treatment to the victim is more important than giving a complaint to the Police. Mere delay in giving report to Police is no ground to reject a claim for compensation. In this connection, this Court finds it proper to refer to precedential guidance.

A) Precedential guidance as to delay:

(i) The Hon'ble Apex Court made in ***Ravi vs. Badrinarayan and Others***[1] the relevant paragraphs 17 to 19 read as follows:-

> *"**17.** It is well settled that delay in lodging the FIR cannot be a ground to doubt the claimant's case. Knowing the Indian conditions as they are, we cannot expect a common man to first rush to the police station immediately after an accident. Human nature and family responsibilities occupy the mind of kith and kin to such an extent that they give more importance to get the victim treated rather than to rush to the police station. Under such circumstances, they are not expected to act mechanically with promptitude in lodging the FIR with the police.*

[1] *(2011) 4 SCC 693 : (2011) 2 SCC (Civ) 426*

Delay in lodging the FIR thus, cannot be the ground to deny justice to the victim.

18. *In cases of delay, the courts are required to examine the evidence with a closer scrutiny and in doing so the contents of the FIR should also be scrutinized more carefully. If the court finds that there is no indication of fabrication or it has not been concocted or engineered to implicate innocent persons then, even if there is a delay in lodging the FIR, the claim case cannot be dismissed merely on that ground. The purpose of lodging the FIR in such type of cases is primarily to intimate the police to initiate investigation of criminal offences.*

19. *Lodging of FIR certainly proves the factum of accident so that the victim is able to lodge a case for compensation but delay in doing so cannot be the main ground for rejecting the claim petition. In other words, although lodging of FIR is vital in deciding motor accident claim cases, delay in lodging the same should not be treated as fatal for such proceedings, if claimant has been able to demonstrate satisfactory and cogent reasons for it. There could be a variety of reasons in genuine cases for delayed lodgment of FIR. Unless kith and kin of the victim are able to regain a certain level of tranquility of mind and are composed to lodge it, even if, there is delay, the same deserves to be condoned. In such circumstances, the authenticity of the FIR assumes much more significance than delay in lodging thereof supported by cogent reasons."*

(ii). the Hon'ble High Court of Madras in ***Tamil Nadu State Transport Corporation, rep by General Manager vs. P.Shanthi***[2], while answering similar contention as to the delay in lodging FIR and standard of proof required in motor accidents claims cases, referring several judgments, observed that :–

[2] *2017 SCC OnLine Mad 38431*

*"**17.** It is the well settled law that proceedings before the Claims Tribunal are summary in nature and it is suffice to consider, whether there is any preponderance of probability, as to the manner of accident, as detailed in the claim petition. Strict proof of evidence is not required.*

*1**8.** At this juncture, this Court also deems it fit to consider a decision in **Jacob Mathew v. State of Punjab,** (2005) 6 SCC 1 : 2005 SCC (Cri) 1369 : (2005) 4 CTC 540 (SC), wherein, the Hon'ble Supreme Court has explained the distinction between a tort and crime, where negligence is the fact, required to be proved and at Paras 13 to 17, held as follows:*

"13. The moral culpability of recklessness is not located in a desire to cause harm. It resides in the proximity of the reckless state of mind to the state of mind present when there is an intention to cause harm. There is, in other words, a disregard for the possible consequences. The consequences entailed in the risk may not be wanted, and indeed the actor may hope that they do not occur, but this hope nevertheless fails to inhibit the taking of the risk. Certain types of violation, called optimizing violations, may be motivated by thrill-seeking. These are clearly reckless.

14. In order to hold the existence of Criminal rashness or Criminal negligence it shall have to be found out that the rashness was of such a degree as to amount to taking a hazard knowing that the hazard was of such a degree that injury was most likely imminent. The element of criminality is introduced by the accused having run the risk of doing such an act with recklessness and indifference to the consequences. Lord Atkin in his speech in Andrews v. Director of Public Prosecutions, [1937] A.C. 576, stated,—

> *"Simple lack of care such as will constitute Civil liability is not enough; for purposes of the criminal law there are degrees of negligence; and a very high degree of negligence is required to be proved before the felony is established."*

Thus, a clear distinction exists between "simple lack of care" incurring Civil liability and "very high degree of negligence" which is

required in Criminal cases. Lord Porter said in his speech in the same case—

> *"A higher degree of negligence has always been demanded in order to establish a criminal offence than is sufficient to create civil liability. (Charlesworth & Percy, ibid, para 1.13)*

15. The fore-quoted statement of law in Andrews has been noted with approval by this Court in Syad Akbar v. State of Karnataka, (1980) 1 SCC 30 : 1980 SCC (Cri) 59. The Supreme Court has dealt with and pointed out with reasons the distinction between negligence in Civil law and in criminal law. Their Lordships have opined that there is a marked difference as to the effect of evidence, viz. the proof, in Civil and Criminal proceedings. In Civil proceedings, a mere preponderance of probability is sufficient, and the defendant is not necessarily entitled to the benefit of every reasonable doubt; but in Criminal proceedings, the persuasion of guilt must amount to such a moral certainty as convinces the mind of the Court, as a reasonable man, beyond all reasonable doubt. Where negligence is an essential ingredient of the offence, the negligence to be established by the Prosecution must be culpable or gross and not the negligence merely based upon an error of judgment.

16. Law laid down by Straight, J. in the case Reg v. Idu Beg, 1881 SCC OnLine All 103 : (1881) 3 All. 776, has been held good in cases and noticed in Bhalchandra Waman Pathe v. State of Maharashtra, 1967 SCC OnLine SC 26 : 1968 Mah LJ 423, a Three-Judge Bench decision of this Court. It has been held that while negligence is an omission to do something which a reasonable man, guided upon those considerations which ordinarily regulate the conduct of human affairs, would do, or doing something which a prudent and reasonable man would not do; Criminal negligence is the gross and culpable neglect or failure to exercise that reasonable and proper care and precaution to guard against injury either to the public generally or to an individual in particular, which having regard to all the circumstances out of which the charge has arisen, it was the imperative duty of the Accused person to have adopted.

17. In our opinion, the factor of grossness or degree does assume significance while drawing distinction in negligence actionable in tort and negligence punishable as a crime. To be latter, the negligence has to be gross or of a very high degree."

B) <u>Statutory Guidance as to importance of F.I.R:</u>

(i). As per Section 176 of the Motor Vehicles Act, the State Governments are entitled to make rules for the purpose of carrying effect to the provisions of the Motor Vehicles Act.

(ii). In relation to claims before the learned MACT, Rule 455 to Rule 476 of the A.P. Motor Vehicles Rules, 1989, vide Chapter No.11 provides comprehensive guidance. As per Rule 476 of the A.P. Motor Vehicles Rules, 1989, the claims Tribunal shall proceed to award the claim basing on the registration certificate of the vehicle, insurance policy, copy of FIR and Post-mortem certificate etc.

C) <u>Precedential Guidance as to proof of Negligence:</u>

(i). The Hon'ble Apex Court in ***Bimla Devi and others Vs. Himachal Road Transport Corporation***[3]***,*** in para 15 observed as follows:

"*15. In a situation of this nature, the Tribunal has rightly taken a holistic view of the matter. It was necessary to be borne in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied. For the said purpose, the High Court should have*

[3] *2009 (13) SCC 530*

taken into consideration the respective stories set forth by both the parties..”

D) Analysis as to Negligence, Accident and Death of the Deceased due to accident:

(i). The date of the pleaded accident is 11.02.2008, whereas the date of the FIR is 18.02.2008. In the column meant for the reasons for the delay, it is mentioned that after information of the injuries, the report is given.

(ii). A charge sheet was filed under Section 338 IPC. The deceased, Putta Adilakshmi, was arrayed as L.W.1. It is stated that the driver was voluntarily pleaded guilty and was sentenced to pay a fine of Rs.300/- for offence under Section 338 IPC and Rs.200/- for the offence under Section 134(a) & (b) in terms of the Motor Vehicles Act, in default to suffer simple imprisonment for two months under Section 252 Cr.P.C., by the learned I Special Judicial Magistrate, Rajahmundry in C.C.No.54 of 2008 under orders dated 02.02.2009.

(iii). As per the pleadings, the deceased died on 18.03.2008. As per the charge sheet and its enclosure addressed to the RTC Depot Manager, Razole Depot, the driver of the bus admitted his guilt and was convicted for the offences under Section 338 IPC and other incidental sections under the Motor Vehicles Act. The charge sheet was not altered. It is not the clear case of the appellants that any inquest was done or that a post-mortem examination was conducted.

(iv). Ex.A5 is the Death Certificate. Ex.A5 does not reflect any specific cause of death.

(v). Ex.A3-Wound Certificate is reflecting that there was an intracapsular fracture of the neck of the right femur while getting down from the bus.

(vi). P.W.1, in his evidence, stated that respondent No.1 / the driver of the A.P.S.R.T.C bus, drove the bus in a rash and negligent manner without observing whether the passengers were getting down, as a result of which the deceased fell down and sustained a fracture to her right hip joint. He has also stated that her kidney was damaged due to the accident.

(vii). During cross-examination, P.W.1 stated that, after the accident, he took the deceased to their family doctor and that no first aid was administered to the deceased at Rajahmundry immediately after the accident. On the next day after the accident, there was swelling on her right hip. The deceased died due to deterioration of her health, as her sugar levels had increased. On 25.02.2008, the deceased was shifted to Rajahmundry from Palakol, as her diabetes was not under control. The deceased was on dialysis from 25.02.2008 to 10.03.2008. He has denied the suggestion that the death was not due to the accident injuries.

(viii). P.W.2 / Amanchi Venkata Apparao, the family doctor of the deceased has spoken about the fracture to the right hip joint (i.e. the femur of the hip joint) and about referring the deceased to a specialist Orthopedic Surgeon, at palakol. He did not say that the cause of death was due to the accident.

(ix). P.W.3 / G. Nageswara Rao, Orthopedic Surgeon at Seshadri Orthopaedic Hospital, Palakol stated about the fracture to the right hip, the

surgery conducted and the case sheet maintained. During cross-examination, he has stated that the injury is not life threatening one.

(x). P.W.4-Nemani Satyanarayana, Nephrologist / Consultant Doctor stated that deceased was a known diabetic and that she had undergone surgery for a fracture of the femur. There was decreased urine output and chronic renal failure. He did not say in specific term that the injury will lead to death.

(xi). From the evidence available on record, it is clear that the petitioners did not place any evidence to establish that the death is due to the accident injuries. But, the accident and the deceased sustaining injuries and respondent No.1, the accused in crime, admitting his guilt are all acceptable in the light of the evidence. In view of the above discussion and also absence of post-mortem report or an inquest report, it is clear that, there is no evidence to establish that the death of the deceased was due to the accident injuries. Therefore, the contention of the claimants that the deceased died due to the accident injuries cannot be accepted. The proximity between the death and the accident injures is not established. Therefore, the claimants are entitled only for compensation towards medical expenses incurred and transportation expenses.

E) Summary of reasons for conclusion:

(i). Upon considering the evidence of P.W.1, the medical bills covered by Ex.A6 and the other facts and circumstances of the case, the following facts are found acceptable:

(i). There was an accident.

(ii). There was negligence on the part of the driver of the bus.

(iii). The deceased sustained a fracture and undergone surgery.

(iv). The petitioners might have incurred reasonable expenditure for the treatment.

(v). There is no evidence indicating that the death is due to the accident injuries.

(vi). The evidence of P.W.1 that the petitioners incurred expenditure for treatment covered by Ex.A6 bills is acceptable in view of the bills.

F) Conclusion:

(i). Upon considering the evidence available on record, this Court finds that the dismissal of claim by learned MACT is not acceptable and that the claimants are entitled for compensation under the heads of medical expenditure incurred for the treatment of the deceased, attendant charges, and transportation expenditure. Since the cause of death attributable to the accident injuries has not been established, the claim for loss of dependency etc. need not be considered.

G) Quantum of compensation:

(i). To show the medical expenditure incurred, the petitioners relied on Ex.X1 and the evidence of the doctors.

(ii). The doctors P.Ws.2 to 4 did not say any specific amount of expenditure incurred by the petitioners and the Court is put to guesswork. However, medical records such as case sheets etc. have been placed on

record. The evidence of P.W.1 alone is available regarding the medical expenditure incurred. In his chief-examination, he has stated that they incurred Rs.66,878/- towards medical expenses, filed medical bills for Rs.46,875/- and that he has paid Rs.20,000/- to the doctor at Seshadri Hospital towards operation charges. Ex.A6 consists of the medical bills.

(iii). In this context, this Court finds it proper with regard to the observations of the Hon'ble Supreme Court made in a case, ***R.D. Hattangadi vs. Pest Control (India) Pvt. Ltd. and others***[4] *vide* paragraph Nos.9, 11 and 12, which reads as follows:

> ***9.*** *Broadly speaking while fixing an amount of compensation payable to a victim of an accident, the damages have to be assessed separately as pecuniary damages and special damages. Pecuniary damages are those which the victim has actually incurred and which are capable of being calculated in terms of money; whereas non-pecuniary damages are those which are incapable of being assessed by arithmetical calculations. In order to appreciate two concepts pecuniary damages may include expenses incurred by the claimant: (i) medical attendance; (ii) loss of earning of profit up to the date of trial; (iii) other material loss. So far non-pecuniary damages are concerned, they may include (i) damages for mental and physical shock, pain and suffering, already suffered or likely to be suffered in future; (ii) damages to compensate for the loss of amenities of life which may include a variety of matters i.e. on account of injury the claimant may not be able to walk, run or sit; (iii) damages for the loss of expectation of life, i.e., on account of injury the normal longevity of the person concerned is shortened; (iv) inconvenience, hardship, discomfort, disappointment, frustration and mental stress in life.*

[4] (1995) 1 SCC 551

11. *In the case Ward v. James [(1965) 1 All ER 563] it was said:*

"Although you cannot give a man so gravely injured much for his 'lost years', you can, however, compensate him for his loss during his shortened span, that is, during his expected 'years of survival'. You can compensate him for his loss of earnings during that time, and for the cost of treatment, nursing and attendance. But how can you compensate him for being rendered a helpless invalid? He may, owing to brain injury, be rendered unconscious for the rest of his days, or, owing to a back injury, be unable to rise from his bed. He has lost everything that makes life worthwhile. Money is no good to him. Yet judges and juries have to do the best they can and give him what they think is fair. No wonder they find it well nigh insoluble. They are being asked to calculate the incalculable. The figure is bound to be for the most part a conventional sum. The judges have worked out a pattern, and they keep it in line with the changes in the value of money."

12. *In its very nature whenever a tribunal or a court is required to fix the amount of compensation in cases of accident, it involves some guesswork, some hypothetical consideration, some amount of sympathy linked with the nature of the disability caused. But all the aforesaid elements have to be viewed with objective standards.*

(iv). This Court, on guess work, finds that the claimants are entitled for compensation of Rs.75,000/- towards medical expenses, Rs.25,000/- towards transportation and Rs.25,000/- towards attendant charges.

(v). For the aforesaid reasons and in view of the discussion made above, the judgment and decree dated 19.04.2012 passed by the learned MACT in M.V.O.P.No.158 of 2009 found not sustainable on law or facts. Accordingly, the judgment and decree dated 19.04.2012 passed by the learned MACT in

M.V.O.P.No.158 of 2009 are liable to be set-aside and the claimants are entitled for compensation of Rs.1,25,000/- with interest at the rate of 6% per annum from the date of petition till the date of realization. Point Nos.1 and 2 framed are answered accordingly.

Result:

Point No.3:

15. In the result, the appeal is allowed in part, as follows:

(i). The judgment and decree dated 19.04.2012 passed by the learned MACT in M.V.O.P.No.158 of 2009 dismissing the petition are set-aside.

(ii). M.V.O.P.No.158 of 2009 is allowed in part as follows:

(a). Claimants are entitled for a compensation of Rs.1,25,000/- with interest at the rate of 6% per annum from the date of petition till the date of realization.

(b). Respondents before the learned MACT / A.P.S.R.T.C are liable to pay the compensation.

(iii). **Apportionment:**

(a) Claimant No.1, husband of the deceased, is entitled for Rs.75,000/- with proportionate interest and costs.

(b) Claimant Nos.2 and 3, children of the deceased, are entitled for Rs.25,000/- each with proportionate interest.

(iv). The time for payment /deposit of the amount is two months.

(a) If the claimants furnish the bank account number within 15 days from today, the respondents / A.P.S.R.T.C shall deposit the amount directly into the bank account of the claimants and file necessary proof before the learned MACT.

(b) If the claimants fail to comply with clause (iv)(a) above, the respondents / A.P.S.R.T.C shall deposit the amount before the learned MACT and the claimants are entitled to withdraw the amount at once on deposit.

(v). There shall be no order as to costs, in the appeal.

16. As a sequel, miscellaneous petitions, if any, pending in the appeal shall stand closed.

A. HARI HARANADHA SARMA, J

Date: 25.08.2026

Note: L.R. copy to be marked.

(B/o).

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Whether the order is:

Speaking		Reasoned	✓
Reportable	✓	Non-reportable	

HON'BLE SRI JUSTICE A. HARI HARANADHA SARMA

M.A.C.M.A.No.2321 of 2012

25.08.2026

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