IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

THURSDAY, THE TENTH DAY OF APRIL
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 99 OF 2019

Between:

1. Andhra Pradesh State Road Transport Corporation, Rep by its Regional Manager, Office of the Regional Manager, APSRTC, beside RTC Bus Stand, Kadapa City, Kadapa District.
2. Andhra Pradesh State Road Transport Corporation, Rep. by its Manager, APSRTC Depot, Palamaneru, Palamaneru Town, Chittoor District.

...Appellants/Respondents

AND

1. Balipogu Reddaiah, S/o.Obulesu, Hindu, aged about 29 years, Electrician, R/o.Saraswathipalle Village, Ramapuram Mandal, Kadapa District. Presently came down to Masapeta, Kadapa City and District.

...Respondent/Claimant

2. Shaik Abdul Showkath, S/o.Abdul Rahim Sagheb, aged about 52 years, Driver APSRTC, D.No.32/180, Gadduru Colony, Palamaneru Town, Chittoor District.

   (R-2 is not necessary in this MACMA)

...Respondent/Respondent

Appeal under Section 173 of Motor Vehicles Act, aggrieved by the Order and Decree dated 28-09-2018 passed in MVOP.No.323 of 2016 on

the file of the Chairman, Motor Accidents Claims Tribunal-cum-IV Additional District Judge, Kadapa, Kadapa District.

This appeal coming on for hearing and upon perusing the grounds of appeal, the Order and Decree of the Trial Court and material papers in the petition and upon hearing arguments of Sri Aravala Rama Rao, Advocate for Appellants, and of Sri D.Kodandarami Reddy, Advocate for Respondent No.1.

THIS COURT DOTH ORDER AND DECREE:

1. That the Appeal be and hereby is dismissed; and
2. That there is no order to costs in this MACMA.

Sd/- K J RAJA BABU
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Chairman, Motor Accidents Claims Tribunal-cum-IV Additional District Judge, Kadapa, Kadapa District. **(With records)**
2. **Three CD Copies**

vna

HIGH COURT

DATED:10/04/2025

DECREE

MACMA.No.99 of 2019



DISMISSING THE MACMA WITHOUT COSTS

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

THURSDAY, THE TENTH DAY OF APRIL
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 99 OF 2019

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Between:

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AND

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(R-2 is not necessary in this MACMA)

...Respondent/Respondent

Counsel for the Appellants :Sri Aravala Rama Rao (SC for APSRTC)

Counsel for the Respondent No.1: Sri D.Kodandarami Reddy

The Court made the following:

APHC010053432019

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3333]
(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF APRIL
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 99/2019

Between:

APSRTC and another ...APPELLANT(S)

AND

B Reddaiah and another ...RESPONDENT(S)

Counsel for the Appellant(S):

1.ARAVALA RAMA RAO(SC FOR APSRTC KKAC)

Counsel for the Respondent(S):

1.D KODANDARAMI REDDY

The Court made the following

JUDGMENT:

The APSRTC filed the present appeal against the order and decree 28.09.2018 in M.V.O.P.No.323 of 2016 on the file of the Court of the Motor Accidents Claims Tribunal-cum-IV Additional District Judge, Kadapa, whereby and whereunder the Tribunal granted compensation of Rs.8,91,715 (Rupees Eight Lakhs Ninety one thousand Seven hundred and Fifteen only) to the claimant/respondent No.1 herein, as against the claim of Rs.11,70,000/-, for the injuries sustained by him in a motor accident that occurred on 26.10.2015.

02. For the purpose of convenience, the parties will be referred to as they are arrayed before the Tribunal.

03. The case of the petitioner is briefly as follows:

The petitioner is a resident of Saraswathipalli, Ramapuram of Kadapa District. He is aged about 27 years. He is an electrician and used to work in Indian Shamiyana Supplier, Rayachoty. On 26.10.2015, the petitioner and his cousin went to Rayachoty on personal work and while they were returning to their village on their motor bike and when they reached Bandapalli Village, Ramapuram Mandal, near Rayachoty – Kadapa main road, an APSRTC bus belonging to the 2nd respondent Depot was parked in the middle of the road without parking lights on and due to the negligence of the 3rd respondent, who was the driver of the said bus, in parking the said bus without taking any precautions, and because of the lighting from the opposite vehicles, the petitioner could not recognize the said bus and hit the same from rear side, due to which he sustained multiple injuries. He underwent emergency

tracheotomy, open reduction and internal fixation for bilateral maxillary and mandibular fractures with inter maxillary fixation under general anesthesia on 28.10.2015 and after 4 to 6 weeks the said inter maxillary wires were removed. In all, the petitioner visited CMC Vellore Hospital on 12 occasions, engaging an hired vehicle incurring Rs.1,20,000/- for that purpose. He was accompanied by two or three attendants during his visit to the hospital, incurring expenses of Rs.10,000/-. For extra-nourishment, he incurred Rs.10,000/- and for medical expenses and treatment, he incurred Rs.1,93,000/-. Prior to the date of accident, the petitioner was working as an electrician and was also working in Indian Shamiyana Suppliers located near RTC bus stand, Rayachoty, run by one Derangula Eswaraiah. He used to dig pits with crowbar and spade and applying physical force for that purpose. On account of the complications developed because of the fracture to right forearm and fracture of 5 ribs and fracture of mandible and forehead, he is unable to discharge his functions as previously. He lost his strength in his right hand practically and of the whole body in general. He used to develop headache and reeling sensation if he is exposed to sun. He is also suffering from pain in mouth and mandible and loosening of teeth. Thus, he got physical and functional disability and is likely to get more problems at a later stage of life. He used to earn about Rs.500/- per day prior to the accident and due to the injuries sustained in the accident, he is at a loss of 50% of the previous income. Therefore, he sought compensation of Rs.11,70,000/- from the respondents.

04. Before the Tribunal, respondent Nos. 2 and 3 remained *ex parte*.

05. Respondent No.1/APSRTC filed a written statement, opposing the claim petition, stating that on the date of accident, the petitioner drove the bike bearing No.AP04-AW-8539 in a rash and negligent manner without head lights and without observing traffic rules and hit the RTC bus of the respondent, which was parked on the extreme left side of the road with parking lights by taking precautionary measures. The petitioner himself dashed against the said bus and there was no negligence on the part of the driver of the bus and despite the same, the petitioner gave a complaint to the police with a view to claim compensation from the respondents. It was further contended that the petitioner did not possess any valid driving license and documents of the said vehicle. The owner and insurer of the said motor bike are necessary parties to this case and the claim petition is bad for non-joinder of necessary parties. It was further contended that the petitioner has not placed any material on record to show that he has suffered permanent disability due to the accident. Thus, it is prayed to dismiss the petition.

06. Basing on the pleadings, the Tribunal framed the following issues for trial:

> *"1. Whether the petitioner sustained injuries in a motor vehicle accident occurred on 26.10.2015 at about 10.15 p.m., due to negligent driving of APSRTC bus bearing No.AP29-Z-1095 or not?*
>
> *2. Whether the petitioner is entitled to any compensation, if so, to what amount and from whom?*
>
> *3. To what relief?"*

07. On behalf of the claimants, P.Ws.1 to 5 were examined and Exs.A1 to A11 were marked. On behalf of respondent No.1/APSRTC, R.W.1 was examined and Ex.B1 was marked. Exs.C1

08. After hearing both parties and after considering the oral and documentary evidence on record, the Tribunal partly allowed the claim petition against respondent Nos.1 to 3, awarding compensation of Rs.8,91,715/- with subsequent interest @6% per annum from the date of filing of the petition till the date of realization and directed respondents No.1 to 3 to jointly and severally pay the said amount within one month from the date of the order.

09. Aggrieved by the said award, the respondents No.1 and 2/APSRTC preferred this appeal contending that the Tribunal failed to consider that the accident occurred solely due to the negligence on the part of the petitioner as he drove the bike under the influence of alcohol. It is further contended that the injuries sustained by the petitioner are minor in nature and that he did not suffer any functional disability. It is further contended that the compensation awarded by the Tribunal is exorbitant and excessive, therefore, prayed to allow the appeal.

10. On the other hand, learned counsel for the claimant/respondent No.1 herein has supported the impugned award and prayed to dismiss the appeal.

11. Now the point for consideration is:

Whether the order of the Tribunal needs any interference?

POINT:

12. The main contention of the learned counsel for the appellants/Corporation is that on the date of the accident, the petitioner was in a drunken state, because of which he dashed the bus, which was parked on the extreme left side of the road. In support of this contention, learned counsel appearing for the appellants/Corporation relied on Ex.A4-Discharge Summary of CMC Hospital, Vellore dated 28.10.2015, as per which the claimant was under the influence of alcohol at the time of accident.

13. In support of their case, the respondent No.1/claimant relied on a judgment in ***Oriental Insurance Co. Ltd., v. Vineetha Nair and others***[1], wherein it was specifically held that simply because there was alcohol smell in the fluid of the deceased driver, it cannot be held that the driver was under the influence of alcohol and in order to claim that a person is under the influence of alcohol, the alcohol content should be 30 mg. per 100 ml. of blood. However, in the instant case, Ex.A4-Discharge Summary does not contain any details as to the percentage of alcohol present in the body of the petitioner. In view of the same and in the light of the principle enunciated in the aforesaid judgment, the contention of the appellants that the petitioner was under the influence of alcohol does not merit acceptance.

14. However, the Tribunal, having considered the fact that the F.I.R. shows that the petitioner could not see the bus because of the lighting from the opposite vehicle, observed that the entire blame cannot be thrown on the

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[1] 2017 ACJ 114

driver of the RTC bus and if the petitioner and the driver of the bus had been cautious, the accident could have been avoided. Having observed thus, the Tribunal deemed it appropriate to fix 40% contributory negligence on the part of the petitioner and 60% on the part of the driver of the RTC bus, which, in the opinion of this Court, is just and proper and needs no interference.

15. So far as the other contention of the appellants that the injuries sustained by the petitioner are minor in nature is concerned, the same cannot be accepted in view of Ex.A11-Disability certificate, which would indicate that the petitioner sustained 40% disability due to the accident. To prove the genuineness of Ex.A11-Disability Certificate, PW4- Dr.C.Sanjeevaiah was examined, who deposed that the petitioner suffered 40% disability as a result of the accident. Further, the medical record reveals that five of his ribs got fractured during the course of accident. Thus, this Court finds no merit in the contention of the appellants that the injuries sustained by the petitioner are minor in nature.

16. So far as the quantum of compensation awarded by the Tribunal is concerned, it can be seen from the impugned award that P.W.5, owner of Indian Shamiyiana Suppliers deposed that P.W.1 is an electrician and used to earn about Rs.500/- per day while working in his Shamiyana Suppliers. Considering the fact that the said work may not be available throughout the year, the Tribunal deemed it just and proper to assess the daily income of the petitioner as Rs.300/- i.e., Rs.9,000/- per month, which, in the opinion of this Court, is proper and needs no interference. Taking into consideration the 40%

disability and applying the relevant multiplier of '17' applicable to the age of the petitioner i.e., 27 years and 40% hike towards future prospects, as per the decision of the Hon'ble Apex Court in ***Sarla Verma v. Delhi Transport Corporation***[2], the Tribunal has rightly calculated the loss of earnings to be Rs.10,28,160/-. Further, having considered Exs.A5 to A10- medical bills, the Tribunal awarded Rs.1,93,031/- towards medical expenses covered by the said bills, Rs.80,000/- towards transportation charges, Rs.10,000/- towards attendant charges, Rs.10,000/- towards extra nourishment, Rs.90,000/- towards loss of earnings for 10 months, Rs.50,000/- towards pain and suffering and mental agony and Rs.25,000/- towards loss of amenities, which totally comes to Rs.4,58,031/-, which cannot be found fault with. After deducting 40% from the total amount calculated above towards contributory negligence on the part of the petitioner, the compensation arrived at by the Tribunal was Rs.8,91,715/-, which is just and proper and cannot be said to be excessive or on higher side. This Court finds no error in the order of the Tribunal granting the said compensation to the petitioner.

16. Viewed from any angle, this Court does not find any grounds to interfere with the award impugned in the appeal.

17. In the result, the appeal is dismissed. No costs.

Pending miscellaneous applications, if any, shall stand closed.

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[2] 2009 ACJ 1298

Sd/- K J RAJA BABU
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Chairman, Motor Accidents Claims Tribunal-cum-IV Additional District Judge, Kadapa, Kadapa District. **(With records)**

2. One CC to Sri Aravala Rama Rao (SC for APSRTC), Advocate [OPUC]
3. One CC to Sri D.Kodandarami Reddy, Advocate [OPUC]
4. The Section Officer, V.R. Section, High Court of A.P at Amaravati.
5. **Three CD Copies**

BSV

VNA

HIGH COURT

DATED:10/04/2025

JUDGMENT AND DECREE

MACMA.No.99 of 2019



DISMISSING THE MACMA WITHOUT COSTS