APHC010005042018

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3604]**
(Special Original Jurisdiction)

MONDAY, THE 12th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 71/2018

Between:

1. ANDHRA PRADESH STATE ROAD TRANSPORT CORPORATION, RAJAMPET DEPOT., RTC BUS NO- AP11-Z-566, REP. BY ITS REGIONAL MANAGER, REGIONAL OFFICE BESIDE DISTRICT COURT, KADAPA TOWN AND DISTRICT.

...APPELLANT

AND

1. KATAM SUBBARAYUDU, S/O. PEDDA MALLAIAH, HINDU, AGED ABOUT 59 YEARS, R/AT. KADIYAMVARIPALLI VILLAGE, MUDRAPALLI POST, CHITVEL MANDAL, KADAPA DISTRICT.
2. KATAM HARINI, D/O. SUBBARAYUDU, HINDU, AGED ABOUT 26 YEARS, R/AT. KADIYAMVARIPALLI VILLAGE, MUDRAPALLI POST, CHITVEL MANDAL, KADAPA DISTRICT.
3. KATAM SUREKHA, D/O. SUBBARAYUDU, HINDU, AGED ABOUT 25 YEARS, R/AT. KADIYAMVARIPALLI VILLAGE, MUDRAPALLI POST, CHITVEL MANDAL, KADAPA DISTRICT.
4. KATAM SAI RAM, D/O. SUBBARAYUDU, HINDU, AGED ABOUT 24 YEARS, R/AT. KADIYAMVARIPALLI VILLAGE, MUDRAPALLI POST, CHITVEL MANDAL, KADAPA DISTRICT.

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Court being aggrieved by the Judgment and Decree dated- 06.09.2017 in M.V.O.P.No-18/2011 on the file of the Motor Accidents Claims Tribunal -Cum -III Additional District Judge, Rajampet, Kadapa District

IA NO: 1 OF 2018

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased To stay all further proceedings including the execution proceedings in MVOP.No.18/2011 on the file of the Motor Accidents Claims Tribunal -Cum-III Addl.Dist Judge, Rajampet, Kadapa Dist and pass

Counsel for the Appellant:

1. ARAVALA RAMA RAO(SC FOR APSRTC KKAC)

Counsel for the Respondent(S):

1. T N M RANGA RAO

The Court made the following:

THE HON'BLE SMT. JUSTICE SUNITHA GANDHAM

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 71 OF 2018

JUDGMENT:

Assailing the Judgment and decree dated 06.09.2017 in M.V.O.P.No.18 of 2011 passed by the Chairman,Motor Vehicle Accident Claims Tribunal-cum-III Additional District Judge, Rajampet, Kadapa District, respondent has preferred the instant appeal for awarding compensation of Rs.12,75,575/- for the untimely death of Smt.Pathakamoory Penchalamma in a road traffic accident.

2. The parties are being referred to as 'petitioners' and 'respondent' as arrayed in the petition before the Tribunal, for the sake of convenience and clarity.

3.**The case of the petitioners is thus**:

(a) The deceased working as Conductor under the Respondent No.1. On 15.05.2008 at about 9.15 a.m., she has started as conductor in A.P.S.R.T.C bearing No.AP11-Z-566 and when the bus reached Reddipalli Tank Bund, driver of the bus drove the same in a rash and negligent manner and dashed one Tractor and Trailer from its behind and as a result of which, front tire of the bus punctured, dashed another vehicle i.e. Swaraj Mazda bearing No.AP02-U-7960 coming in the opposite direction and as a result of which, accident took place, P.Penchulamma sustained multiple injuries and died on the spot.

(b) Basing on the report of defacto-Complainant, a case in Cr.No.29 of 2008 was registered of the offence under Sections 304-A of Indian Penal Code against the driver of the A.P.S.R.T.C Bus. Petitioner No.1 is the husband, petitioner Nos.2 to 4 are children of the deceased P.Penchulamma.

As on the date of accident, the deceased hale and healthy and aged about 38 years and was working as conductor and was earning Rs.9,864/- per month. Due to the sudden demise, all the petitioners, who are dependants and legal representatives of the deceased lost their financial support as well as love and affection. Respondent is liable to pay compensation.

4. Respondent filed counter refuting the averments made in the petition, wherein, inter alia contended that the petitioners claimed excessive compensation, there was no negligence on the part of the driver of the A.P.S.R.T.C bus, the accident not occurred due to rash and negligent driving of the driver of the A.P.S.R.T.C Bus and the petition is bad for non-joinder of necessary parties and with other formal denials, prayed to dismiss the petition.

5. Taking into consideration of the aforementioned pleadings, the learned Tribunal settled the following issues:

> 1) Whether the deceased Pathakamoory Penchalamma W/o.Subbarayudu met with an accident on 15.05.2008 and died due to rash and negligent act of the driver of the A.P.S.R.T.C Bus Bearing No.AP11-Z-566 relating to Rajampet Depot?
>
> 2) Whether the deceased Pathakamoory Penchalamma, W/o. Subbarayudu was earning Rs.9,864/- per month as on the date of accident as contended by petitioners/claimants?
>
> 3) Whether the petitioners/claimants are entitled to compensation, if so, how much and from whom?
>
> 4) To what relief?

6. During trial, petitioner No.1 examined himself as PW.1 and petitioners have got examined independent witnesses as PW.2 and PW.3, and filed Exs.A1 to A9 and Exs.X1 to X4 documents. As against the said evidence, respondent has got examined its employee/driver as R.W.1 and no documents are filed. Upon consideration of the evidence and material on record, the learned Tribunal allowed the claim petition and awarded

compensation of Rs.12,75,575/- with interest at 9% per annum from the date of petition till the date of deposit or realization.

7. Being aggrieved by the said Judgment and decree, the respondent preferred the instant appeal, urging the principal grounds that:

(i) The impugned order and decree of the learned Tribunal is illegal, arbitrary, unsustainable, contrary to law, weight of evidence and probabilities of the case.

(ii) The learned Tribunal failed to see that there is no rash and negligent driving on the part of the driver of the A.P.S.R.T.C Bus.

(iii) The learned Tribunal ought to have seen that the accident was occurred due to rash and negligence on the part of the driver of the mini Lorry.

(iv) The learned Tribunal failed to see that the non-joinder of proper and necessary parties i.e. owner and the insurer of the mini lorry as respondents.

(v) The learned Tribunal ought to have seen that the accident occurred due to the rash and negligent driving of the driver of Tempo, he had no valid driving license, Tempo had no valid Insurance on the date of the accident and as such, claimants foisted a false case against the Corporation.

(vi) The learned Tribunal erroneously considered the future prospects at 50%, though the deceased aged more than 40 years.

(vii) The Tribunal erred in awarding Rs.1,00,000/- towards love and affection, Rs.1,00,000/- towards consortium and Rs.20,000/- towards funeral expenses.

(viii) The Tribunal erred in awarding interest @ 9% instead of 7.5%, and with other formal grounds, prayed to allow the appeal.

8. Heard both sides. Perused the material available on record including the impugned Judgment dated 06.09.2017.

9. On hearing both sides and upon perusing the material placed on record, the points that would arise for consideration are as follows:

(1) Whether the accident dated 15.05.2008 occurred due to the rash and negligent driving of the driver of A.P.S.R.T.C bearing No.AP11-Z-566?

(2) Whether the petitioners are entitled for compensation? If so, to what amount?

(3) Whether the Judgment and decree dated 06.09.2017 passed in M.V.O.P.No.18 of 2011 by the Chairman, Motor Accident Claims Tribunal-cum-III Additional District Judge, Rajampet, Kadapa District, are sustainable in facts and law?

(4) To what relief?

10. **Point No.1:**

(a) Admittedly, feeling aggrieved by the finding given by the learned Tribunal in respect of the accident, petitioners have not preferred any appeal, however, being the first appellate court and final fact finding court, this court has to re-examine and re-appreciate the entire oral as well as documentary evidence on record.

(b) Now, it is necessary to analyze the evidence on record to answer the points. As seen from the record, absolutely there is no dispute with regard to the factum of the accident. To prove the manner and method of the accident, during trial, petitioner No.1 filed examination-in-chief affidavit in lieu of chief examination by reiterating the averments mentioned in the petition. PW.1 who is husband of the deceased is not an eye-witness to the accident and the only available evidence is that of PW.2 who is none other than the driver of Tractor and Trailer. He testified that the accident occurred due to the rash and

negligent driving of the driver of the A.P.S.R.T.C. Bus and as a result, the deceased sustained multiple injuries and died on the spot. He is the person who set the law into motion in Cr.No.29 of 2008 against the driver of A.P.S.R.T.C Bus. Having stated that the accident not occurred due to his rash and negligent driving, R.W.1 categorically admitted that a crime was registered against him and nothing useful material is elicited in the cross-examination of P.W.2.

(c) Further, Ex.A1/First information report reveals that a case in Cr.No.29 of 2008 was registered of the offence punishable under Section 304-A of I.P.C, against RW.1 and after completion of investigation, police laid Ex.A5/Charge sheet alleging that the accident occurred only due to the rash and negligent driving of R.W.1. To refute the said oral and documentary evidence adduced by the petitioners, respondents have not adduced any rebuttal evidence. So the evidence of PW.1 and PW.2 coupled with the Ex.A1 and Ex.A5 clinchingly proves that the accident occurred due to the rash and negligent driving of the driver of A.P.S.R.T.C Bus.

(d) Further, Ex.A3/Postmortem Report and Ex.A7/Inquest Report reveals that the conductor P.Penchalamma sustained injuries in the accident and succumbed to the said injuries. As per Ex.A4/Motor Vehicle Inspector Report, the accident is not occurred due to any mechanical defect. Therefore, this Court is of the considered view that the accident occurred only due to the rash and negligent driving of the driver of the A.P.S.R.T.C Bus and Smt. P.Penchalamma sustained injuries in the said accident and succumbed to the said injuries. Hence, this point is answered in the affirmative and in favour of the petitioners.

11. **Point No.2:**

(a) As per version of the petitioners, the deceased hale and healthy, aged about 38 years, working as Conductor in A.P.S.R.T.C, was drawing salary of Rs.5,737/- per month and the petitioners, who are husband and children of

deceased lost financial support, love and affection. As seen from Ex.A2/Postmortem report and Ex.A3/Inquest report and Ex.A5/Charge sheet, age of the deceased is mentioned as 38 years. There is no contra evidence to that effect. So, it can safely be concluded that the age of the deceased was 38 years, as on the date of accident. The relevant multiplier is '15'. The petitioners who are none other than the legal representatives and dependants of the deceased are entitled for compensation.

(b) So far as income of the deceased is concerned, to substantiate the version of the petitioners, petitioners have got examined PW.3, Assistant Manager of A.P.S.R.T.C and filed Exs.X1 to X4/Authorized letter, salary certificate, attested copy of Service Register and attested copy of salary slip of the deceased. PW.3 testified that the deceased working as Conductor and was drawing salary of Rs.5,737/- per month, as on the date of accident and had the deceased been alive, she would have promoted to the higher post and earned more. There is no reason to disbelieve the evidence of P.W.3, who is none other than employee of the respondent, and the said documents vide Exs.X1 to X4 are also not disputed by the respondent. So, it can safely be concluded that the deceased working as Conductor in A.P.S.R.T.C and drawing salary of Rs.5,737/- per month, as on the date of accident.

(c) The petitioners have not filed any appeal for enhancement of compensation, however, learned counsel for the petitioners would argue that though they have not filed any appeal or cross objections seeking enhancement of compensation, just and fair compensation may be awarded. Learned counsel for the respondent No.1 argued that the accident occurred in the year 2008 and as such, the present principles of law shall not be applied to the facts of the case at hand. It is settled principle of law that the petitioners are entitled for just and fair compensation and further, in exercise of the appellate powers under Order 41 Rule 33, this court can enhance the amount of compensation even in the absence of appeal or cross objections. In this

regard, it is to be noted that in ***Sharanamma & Others v. Divisional Controller, North-East Karnataka Road Transport Corporation***[1]***,*** Hon'ble Apex Court held thus:

> "10. When an appeal is filed under Section 173 of the Motor Vehicles Act, 1988, before the High Court, the normal rules which apply to appeals before the High Court, are applicable to such an appeal also. Even otherwise, it is well settled position of law that when an appeal is provided for, the whole case is open before the appellate court and by necessary implication, it can exercise all powers incidental thereto in order to exercise that power effectively. A bare reading of Section 173 of the Act also reflects that there is no curtailment or limitations on the powers of the appellate court to consider the entire case on facts and law".

(d) Further, in ***National Insurance Company Limited rep. By its Branch Manager v. Susheelamma and Others*** [2] ***,*** having considered the aforementioned principle, Division Bench of this Court has held that to the appeal under Section 173 of the M.V. Act to the High Court, in the absence of a different procedure having been provided, either under the M.V. Act or the A.P.M.V. Rules, 1989, and the applicability of Order 41 C.P.C also not having been excluded, the normal rules which apply to appeals before the High Court, are applicable and further held that for doing justice and to award just compensation, the provisions of Order 41 Rule 33 are to be invoked.

(e) And, in ***Surekha v. Santhosh***[3], having agreed with the stand of the claimants that just compensation amount ought to be awarded, High Court of Judicature at Bombay declined to grant enhancement merely on the ground that the claimants failed to file cross appeal and in such circumstances, Hon'ble Apex Court held that it is well settled that in the matter of insurance claim compensation in reference to the motor accident, the court should not

[1] 2013 (11) SCC 517
[2] 2023 SCC Online AP 1725
[3] (2021) 16 SCC 467

take hyper technical approach and ensure that just compensation is awarded to the affected person or the claimants. So, in the absence of any appeal or cross objections in respect of quantum of compensation, this Court is under obligation to award just and fair compensation.

(f) While awarding compensation, the principles laid down by the Hon'ble Apex Court in ***Sarala Varma and Others Vs. Delhi Transport Corporation and another***[4] , ***National Insurance Company Ltd Vs. Pranay Sethi and others***[5] and ***Magma General Insurance Company Limited v. Nanu Ram alias Chuhru Ram and others*** [6] shall be taken into consideration. Admittedly, accident in this case is occurred on 15.05.2008 and the learned Tribunal passed impugned award on 06.09.2017 and this appeal is registered in the year 2018. Insofar as applicability of the subsequent settled principles of law to the facts of the case at hand, it is apposite to mention that in ***Government of India and another v. Sri Devaraj Medical College***[7], it is held that if a decision of the Hon'ble Apex Court does not expressly provides its application to be prospective, then it is a settled law that all the decisions are retrospective in application.

(g) Applying the aforementioned principles, this court assessed the compensation as follows:

Sl. No.	**Heads**		**Calculation**
1.	Annual income (Rs.5737x12)	Rs.	68,844/-
2.	Deduction towards personal expenses (68,844x1/4)	Rs.	17,211/-
3.	Total income (68,844-17,211)	Rs.	51,633/-
4.	Future prospects (50% of 51,633)	Rs.	25,816/-
5.	Total loss of dependency (51,633+25,816)x15	Rs.	11,61,735/-

[4] (2009) ACJ 1298
[5] (2017) 6 SCC 680
[6] (2018) 18 SCC 130
[7] 2026 Livelaw SC 766

6.	Loss of consortium (40,000x4) (spousal and filial)	Rs.	1,60,000/-
7.	Funeral expenses	Rs.	15,000/-
8.	Loss of estate	Rs.	15,000/-
	Total	Rs.	**13,51,735/- (rounded to Rs.13,51,800/)**

(h) In the given facts and circumstances of the case, the petitioners are entitled for **Rs.13,51,800/- (Rupees Thirteen Lakhs Fifty One Thousand Eight Hundred Only)** and in this court's well considered view, the compensation awarded is just, adequate and reasonable, as the deceased had left her dependents.

(i) So far as liability of the respondents is considered, a finding is already given in point No.1 that the accident occurred only due to the rash and negligent driving of driver of APSRTC bus and as such, respondent is liable to pay compensation. Hence, this point is answered holding that respondent is liable to pay compensation.

12**. Point No.3:**

Upon reappraisal of the evidence on record, and for the foregoing reasons, this court came to the conclusion that order and decree of the learned Tribunal in respect of findings are sustainable in facts and law, however, for the reasons mentioned by this Court, compensation amount is enhanced to Rs.13,51,800/- to meet ends of justice. Hence, this point is answered accordingly.

13. **Point No.4:**

(i) **In the result**, and in view of the findings in point Nos.1 to 3, this Motor Accident Civil Miscellaneous Appeal is dismissed, however, modifying the Order of the learned Tribunal in respect of the compensation **from Rs.12,75,575/- (Rupees Twelve Lakhs Seventy Five Thousand Five**

Hundred and Seventy Five Only) to Rs.13,51,800/- (Rupees Thirteen lakhs fifty one thousand eight hundred only) and the same rate of interest awarded by the Tribunal from the date of petition till the date of payment of realization recoverable by the petitioners from respondent.

(ii) Out of the said compensation amount, an amount of Rs.4,51,800/- is awarded to the petitioner No.1, Rs.3,00,000/- each is awarded to the petitioners Nos.2 to 4. Apportionment is ordered accordingly.

(iii) The respondent shall deposit the compensation amount, as aforesaid, with interest, excluding the amount, if any, already deposited, within (02) two months, before the learned Tribunal.

(iv) On such deposit, petitioner Nos.1 to 3 are permitted to withdraw the compensation as awarded supra along with accrued interest thereon, excluding the amount, if any, already paid.

(v) The award amount of petitioner No.4 shall be kept in fixed deposit, in any nationalized bank, till she attains majority.

(vi) There shall be no order as to costs.

As a sequel thereto, pending miscellaneous petitions, if any, shall stand closed.

SUNITHA GANDHAM, J

Dated 12.10.2026
SSA/knl