APHC010018062017

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: 2006/2017

Between:

1. ANDHRA PRADESH STATE ROAD, ANANTHAPURAMU DIST, REP. BY ITS REGIONAL MANAGER, ANANTHAPURAMU, ANANTHAPURAMU DIST. BUS BEARING NO: AP-02-Z-0081

...APPELLANT

AND

1. UPENDRAM HARSHAVARDHAN RAJU ANANTHAPURAMU DIST ANOTHER, S/O. U. SAINATHA RAJU, HINDU, AGED ABOUT 29 YEARS, STUDENT, R/O. D. NO: 1/3/978, SOMANATHA NAGAR, ANANTHAPURAMU, ANANTHAPURAMU DIST.
2. UPENDRAM VAMSI KRISHNA, S/O. U. SAINATHA RAJU, HINDU, AGED ABOUT 27 YEARS, STUDENT, R/O. D. NO: 1/3/978, SOMANATHA NAGAR, ANANTHAPURAMU, ANANTHAPURAMU DIST.

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Courtaggrieved by the Judgment and Decree dated: 01.02.2017 in O.P. No: 352/2015 on the file of the Motor Accidents Claims Tribunal - Cum - III Additional District Judge, Fast Track Court, Ananthapuramu

IA NO: 1 OF 2017(MACMAMP 3620 OF 2017

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 of all further proceedings including the execution proceedings in O.P.No. 352 of 2015 on the file of the Motor Accidents Claims Tribunal cum III Additional District Judge, Fast Track Court, Ananthapuramu, Ananthapuramu District and pass

IA NO: 4 OF 2017(MACMAMP 27896 OF 2017

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

Counsel for the Appellant:

1. ARAVALA RAMA RAO(SC FOR APSRTC KKAC)

Counsel for the Respondent(S):

1. INENI VENKATA PRASAD

The Court made the following:

THE HON'BLE SMT. JUSTICE SUNITHA GANDHAM

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 2006 OF 2017

JUDGMENT:

Assailing the order and decree dated 01.02.2017 passed in O.P.No.352 of 2015 by the Motor Accident Claims Tribunal-cum-III Additional District Judge, Fast Track Court, Ananthapur, the respondent/appellant has preferred the instant appeal for granting compensation of Rs.14,70,000/- for the untimely the death of Upendram Sainatha Raju in a motor vehicle accident dated 26.03.2013.

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. Case of the petitioners is thus:

On 26.03.2013, while the deceased travelling from Ananthapuramu to Nandyal in APSRTC Bus bearing No.AP-02-Z-0081 and when the bus reached near Peravali Village at about 09.30 A.M, the driver of APSRTC bus drove in a rash and negligent manner with high speed and dashed against the Eicher lorry bearing No.AP-02-TA-7370 and as a result of which, deceased/Upendram Sainatha Raju sustained grievous injuries and died on the spot. As on the date of the accident, deceased aged about 55 years, hale and healthy, working as Deputy Inspector of Survey and was earning Rs.34,000/- per month and contributing the same for maintenance of his family. Due to the sudden demise, petitioners who completely depended upon the earnings of the deceased, lost financial support and love and affection. The accident occurred due to rash and negligent manner of driver of the APSRTC bus bearing No.AP-02-Z-0081 and as such, a case in Crime No.23 of 2013 is registered of the offence under Sections 338 & 304-A of the Indian Penal Code (hereinafter referred to as 'the Code') against the driver of the

offending vehicle/respondent and as such, respondent is liable to pay compensation.

4. Respondent filed counter refuting the averments made in the petition regarding manner of accident, age, income, occupation and stating that the accident occurred due to the rash and negligent driving of the driver of Eicher lorry bearing No.AP-02-TA-7370, there was no negligence on the part of the driver of the bus, petitioners claim excessive compensation, driver of the said Eicher lorry had no driving license, as on the date of accident, at the instance of lorry owner, police registered a case against the driver of the bus, 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 accident occurred on 26.03.2013 at about 9.30 p.m., due to rash and negligent driving of driver of crime vehicle bearing No.AP-02-Z-0081 and caused the death of U.Sainatha Raju?
2) Whether the petitioners are entitled to compensation and if so, to what amount?
3) To what relief?

6. During trial, petitioner No.1 himself examined as PW.1 and other independent witnesses as PW.Nos.2 and 3, filed Exs.A1 to A6 documents. As against the said evidence, RW.1 is examined and Exs.B1 and B2 and Exs.X1 and X2 documents are filed. At the culmination of trial, learned Tribunal awarded compensation of Rs.14,70,000/- with interest at 7.5% per annum. Feeling aggrieved by the said order and decree, respondent/APSRTC preferred the instant appeal urging the following grounds:

i. The order and decree of the learned Tribunal is illegal, arbitrary, contrary to law and weight of evidence.

ii. The learned Tribunal failed to see that there was no rash and negligent driving on the part of the driver of the bus and the accident occurred due to rash and negligent driving of the driver of the Eicher lorry.

iii. The learned Tribunal failed to see that non-joinder of proper and necessary parties i.e. owner and insurer of the lorry, makes the claim not maintainable.

iv. The learned Tribunal failed to see that the petitioners are not dependents on the income of the deceased.

v. The learned Tribunal ought to have seen that there is no documentary evidence to show the income of the deceased, and with other formal grounds, prayed to allow the appeal.

7. Heard both sides.

8. On hearing both sides and upon perusing the material available on record, the points that would arise for consideration are:

i. Whether Sri U.Sainatha Raju died in the accident dated 26.03.2013 occurred due to the rash and negligent driving of the driver of APSRTC bearing No.AP-02-Z-0081?

ii. Whether the petitioners are entitled for compensation? If so, to what amount?

iii. Whether the order and decree dated 01.02.2017 passed by the learned Tribunal are sustainable in law and facts?

iv. To what relief?

9. Admittedly, the petitioners have not filed any appeal or cross objections against the findings in respect of quantum of compensation, 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.

10. **Point No.1:**

(a) As seen from the record, there is absolutely no dispute in respect of the factum of accident. In order to prove the manner and method of accident, petitioners relied upon the evidence of PW Nos.1 and 2 coupled with Exs.A1 to A5 documents. It is evident from the record that PW.1 who is son of the deceased is not an eye witness to the accident and only available evidence to prove the manner and method of accident is that of PW.2 and he testified that on 26.03.2013, while he was travelling from Ananthapuramu to Nandyal in APSRTC bus bearing No.AP-02-Z-0081 and when the bus reached Peravali Village at about 09.30 A.M, the driver of APSRTC bus drove the same in a rash and negligent manner, lost control over the bus and dashed against the Eicher lorry bearing No.AP-02-TA-7370 and as a result of which, deceased/Upendram Sainatha Raju sustained grievous injuries and died on the spot, the accident occurred due to the rash and negligent manner of driver of the APSRTC Bus bearing No.AP-02-Z-0081 and as such, a case in Crime No.23 of 2013 is registered of the offence under Sections 338 & 304-A of the Code against the driver of the offending vehicle/respondent and in the cross-examination, nothing useful material is elicited.

(b) Further, as seen Ex.A1/First information report and Ex.A5/Final report, crime is registered of the offences stated *supra* and after completion of investigation, police filed charge sheet alleging that the accident occurred only due to the rash and negligent driving of the driver of APSRTC Bus bearing No.AP-02-Z-0081. Having argued that the accident occurred due to the rash and negligent driving of driver of Eicher lorry bearing No.AP 02 TA 7370, respondent failed to adduce any supportive oral as well as documentary evidence. So, the evidence of PW.2 coupled with Exs.A1 and A5 clinchingly proves that the accident occurred due to the rash and negligent driving of driver of APSRTC bus bearing No.AP-02-Z-0081. As seen from Ex.A3/Post-mortem report, deceased Upendram Sainatha Raju sustained injuries in the accident and succumbed to the said injuries. Therefore, this court is of the

considered view that the accident occurred only due to the rash and negligent driving of driver of APSRTC bus bearing No.AP-02-Z-0081. Hence, this point is answered in the affirmative and against the respondent.

11. Point No.2:

(a) As per the version of petitioners, deceased hale and healthy, aged about 55 years, working as Deputy Inspector of Survey and drawing salary of Rs.34,000/- per month and due to the sudden demise of the deceased, petitioners lost financial support and love and affection.

(b) Insofar as age and income of the deceased is concerned, petitioners relied upon the evidence of PW.3/Special Revenue Inspector coupled with Exs.X1/Service register and A6/Salary certificate. Having produced Ex.X1/Service register of the deceased, PW.3 testified that on 10.06.2019, the deceased joined in service, his date of birth is 20.06.1956, as on the date of the accident, deceased working as deputy inspector of surveyor and was drawing salary of Rs.39,000/- per month. Except posing bald suggestions, respondents have not elicited any probabilities in their favour to dislodge the evidence of PW.3. So, it can safely be held that the deceased aged about 57 years, working as deputy inspector of surveyor and was drawing salary of Rs.39,000/- per month. Learned counsel for the respondents argued that both the petitioners are not dependents and they are major sons of the deceased and as such, they are not entitled for compensation. In this regard, it is to be mentioned that in ***Manjuri Bera Vs. Oriential Insurance Company Limited***[1], Hon'ble Apex Court held at Para No.14 as follows:

> "14..... In paragraph 16 of the said decision, while adverting to the provisions of Section 140 of the Act, the Court observed that even if there is no loss of dependency, the claimant, if he was a legal representative, major sonwill be entitled to compensation. In the concurring judgment of Justice S.H. Kapadia, as His Lordship then was, it is observed that there is distinction between "right to apply for compensation" and "entitlement to compensation". The compensation constitutes part of the estate of the deceased. As a result, the legal representative of the deceased would inherit the estate. Indeed, in that case, the Court was dealing with the case of a married daughter of the deceased and the efficacy of Section

[1] 2007 ACJ 1279 (SC)

> 140 of the Act. Nevertheless, the principle underlying the exposition in this decision would clearly come to the aid of the respondent Nos. 1 and 2 (claimants) even though they are major sons of the deceased and also earning."

So, petitioners being legal representatives of the deceased are entitled for compensation.

(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 argued that the accident occurred in the year 2013 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***[2]***,*** 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*** [3] , having considered the aforementioned principle, Division Bench of this Court has held that to the

[2] 2013 (11) SCC 517
[3] 2023 SCC Online AP 1725

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***[4], 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 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***[5] , ***National Insurance Company Ltd Vs. Pranay Sethi and others***[6] and ***Magma General Insurance Company Limited v. Nanu Ram alias Chuhru Ram and others***[7] shall be taken into consideration. Admittedly, accident in this case is occurred in the year 2013 and on 01.02.2017, the learned Tribunal passed the impugned order and decree. 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***[8], it is held that if a decision of the Hon'ble Apex

[4] (2021) 16 SCC 467
[5] (2009) ACJ 1298
[6] (2017) 6 SCC 680
[7] (2018) 18 SCC 130
[8] 2026 Livelaw SC 766

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.39000x12)	Rs.	4,68,000/-
2.	Tax deduction (4,68,000x10%)	Rs.	46,800/-
3.	Deduction towards personal expenses (4,68,000x1/3)	Rs.	1,56,000/-
4.	Total income (4,68,000-1,56,000-46800)	Rs.	2,65,200/-
5.	Future prospects (15% of 2,65,200)	Rs.	39,780/-
6.	Total loss of dependency (2,65,200+39,780)x9	Rs.	27,44,820/-
7.	Loss of consortium (40,000x2) (parental)	Rs.	80,000/-
8.	Funeral expenses	Rs.	15,000/-
9.	Transportation expenses	Rs.	10,000/-
10.	Loss of estate	Rs.	15,000/-
	Total	Rs.	28,64,820/-

(h) In the given facts and circumstances of the case, the petitioners are entitled for Rs.28,64,820/- and in this court's well considered view, the compensation awarded is just, adequate and reasonable, as the deceased had left his dependents.

(i) So far as liability of the respondent 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 vicariously 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 the learned Tribunal erred in

assessing just and fair compensation and as such, the same is liable to be modified. 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 amount of compensation **from Rs.14,70,000/- (Rupees Fourteen Lakhs Seventy Thousand only) to Rs.28,64,820/- (Twenty Eight Lakhs Sixty Four Thousand Eight Hundred Twenty only)** and awarded the same to the petitioners with interest thereon at 7.5% per annum simple 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.14,32,410/- (Fourteen Lakhs Thirty Two Thousand Four Hundred and Ten only) each is awarded to the petitioners. Apportionment is ordered accordingly.

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

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

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

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

SUNITHA GANDHAM, J

Dt:12.10.2026

Scs/Vns