APHC010023672019

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3505]
(Special Original Jurisdiction)

FRIDAY, THE 6th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 82/2019

Between:

1. ROYAL SUNDARAM ALLIANCE INSURANCE CO LTD, TP CLAIM CELL, 5TH FLOOR, JEWEL PAWANI TOWERS, RAJBHAVAN ROAD, SOMAJIGUDA HYDERABAD

...APPELLANT

AND

1. M PARAMESHWARA, D.NO. 4/37, TEMPLE STREET, MASAPET, RAYACHOTY TOWN, KDAPA, KADAPA DISTRICT
2. SHAIK WAJEED, D.NO. 26/36, MAHABOOB BASHA STREET, THUMUKUNTA VILLAGE, GALIVEEDHU MANDAL, KADAPA
3. SHAIK VAZEED, R/O.MADARSHBPALLI VILLAGE, THUMUKUNTA POST, GALIVEEDHU MANDAL

...RESPONDENT(S):

Appeal filed under Section 173 of MV Act before the High Court Pleased to allow the appeal by setting aside the order and decree dated 08-10-2018 passed in MVOP. 322/2016 on the file of the motor accidents claims Tribunal - Cum - IV Additional district judge at kadapa.

IA NO: 1 OF 2019

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 the operation order and decree dated 08.09.2018 passed in MVOP. NO.322/2016 on the file of the Motor Accidents Claims Tribunal - Cum - IV Addl. District Judge at Kadapa.

Counsel for the Appellant:

1. D RAVI KIRAN

Counsel for the Respondent(S):

1. D KODANDARAMI REDDY

The Court made the following:

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

M.A.C.M.A.No.82 OF 2019

JUDGMENT:

1. Feeling aggrieved by the quantum of compensation awarded by order dated 08.10.2018 in M.V.O.P.No.322 of 2016 on the file of the learned Chairman, Motor Accidents Claims Tribunal-cum-IV Additional District Judge, Kadapa, preferred the present appeal by the M/s Royal Sundaram Alliance Insurance Company Limited.

2. For the sake of convenience, the parties are referred to as they were referred before the Tribunal.

3. The petitioner/claimant preferred M.V.O.P.No.322 of 2016 under Section 166 of Motor Vehicles Act and the Rules made thereunder seeking compensation of Rs.20,10,000/- against the respondents on account of the injuries sustained by him in the accident that occurred on 22.12.2014.

4. It was the case of the petitioner that the petitioner is doing business in Cement, paints and steel in the name and style of Sri Thirumala Paints and Hardwares at Rayachoty. The petitioner was aged about 41 years as on the date of accident and he was earning an amount of Rs.40,000/- per month. Further, the petitioner is income tax assessee.

5. On 22.12.2014, the petitioner along with his brother went to Kadapa in car bearing registration No.AP 04 AK 0746. While they were returning, when they reached near bride of Modimadugu, another car bearing

registration No.AP 04 AR 8475 came in opposite direction and hit the tractor and trailer bearing registration No.AP 04 U 3633 which was parked on the bridge thereby lost control and fell on the car of the petitioner. In view of the said accident, the petitioner sustained grievous injuries.

6. It was further stated that the tractor and trailer was parked on the road without taking any precaution and without its parking lights on. A case was registered in Crime No.209 of 2014 against the driver of the tractor, later the same was investigated into and charge sheet was filed. The petitioner was shifted to RIMS hospital, Kadapa and thereafter, he was shifted to Land Mark hospital, Hyderabad for better treatment, where he underwent surgery to the communited fracture sustained to his 1/3rd right femur. A metal road was fixed and he was advised to take bed rest. In view of the injuries sustained, the petitioner is suffering with pain and he is unable to sit continuously for 2 to 3 hour or travel long distances. Further, it was averred that he cannot sit on his knees or sit cross leg and he is facing difficulty while doing so. In view of the injuries sustained by him he was not able to come out side frequently for collection of dues from his purchasers and therefore, he engaged one Sri P.Sreenivasulu for the said purpose and the said Sreenivasulu was paid an amount of Rs.300/- per day. It was further case of the petitioner that he spent a huge amount of money towards medicines, transport and extra nourishment apart from attendant charges. Further, he also sustained future loss of earning. In those circumstances, he approached the Tribunal by filing the above petition seeking to pay compensation.

7. Respondent Nos.1 and 3 i.e., the owner and driver of the tractor and trailer remained *ex parte.*

8. Respondent No.2 Insurance Company filed counter affidavit inter-alia denying the averments made in the claim petition. It was stated that the accident occurred due to the rash and negligent driving of the car bearing registration No AP 04 AR 8475 coming in the opposite direction by its driver, which hit the tractor and trailer parked on the bridge and in turn the said car fell on the petitioner's car bearing registration No.AP 04 AK 0746.

9. It was further contended that the petition is bad for non-joinder of necessary parties i.e., owner and insurance company of the car coming in the opposite direction. It was also stated in the counter affidavit that the accident was occurred due to the head lights of the petitioner's car as he could not locate the tractor and trailer, which was parked on the road/bridge and dashed against the same. It was further averred that there was no negligence on the part of the tractor and trailer, however in order to claim compensation, the petitioner managed to get case registered against the driver of the tractor and trailer. It was further stated that both the drivers of the cars are responsible for the accident. Further, it was stated that the petitioner has to prove that he was holding valid driving license as on the date of accident and if, any compensation was payable, the liability cannot be fastened on the insurance company alone. With the above pleadings, the insurance company prayed to dismiss the claim petition.

10. In order to prove the case of the petitioner, he was examined as P.W.1 and doctors who treated him were examined as P.Ws.2 and 3. The petitioner also marked documents in Exs.A1 to A9. On the other hand, one Sri K.Leela Kumar, Manager of Insurance Company was examined as R.W.1 and copy of the insurance policy was marked as Ex.B.1.

11. After hearing the parties, the Tribunal by order under challenge partly allowed the claim petition by awarding compensation of Rs.18,71,400/- together with interest @ 8% p.a. from the date of petition till the date of realization by fastening the liability on respondent Nos.1 to 3. Aggrieved by the said order, the present appeal is filed.

12. Heard Sri D.Ravi Kiran, learned counsel appearing for the appellant-Insurance Company and Sri Lakshmi Harish, learned counsel representing Sri D.Kodanda Rami Reddy, learned counsel appearing for respondent No.1.

13. As the respondent Nos.2 and 3 remained *ex parte* before the Tribunal, this Court proceeded with the hearing of the matter.

14. Perused the material available on record.

15. The learned counsel for the appellant would strenuously contend that there was contributory negligence on the part of the petitioner coming in the opposite direction in car bearing registration No.AP 04 AR 8475. In order to prove the same, the learned counsel for the appellant would rely on the averments made in the counter affidavit.

16. The specific case of the insurance company was that the accident occurred due to the head light of the petitioner's case, the driver of the opposite car could not locate the tractor and trailer which was parked on the bridge. In view of the same, the car coming in the opposite direction dashed against the tractor and trailer and then fell on the petitioner's car. Therefore, there was contributory negligence on the part of the petitioner's and the driver of the offending car. In order to prove the said contention, the appellant did not examine any witness in this regard except relying on the averments made in the counter affidavit, nothing is placed before the Tribunal to substantiate his contention.

17. On the other hand, after appreciating the oral and documentary evidence put forth by the petitioner, the Tribunal had recorded categorical finding that the accident was occurred due to the negligent parking of the tractor and trailer bearing registration No.AP 04 U 3633. It is not in dispute that the tractor bearing registration No.AP 04 U 3633 was insured with the appellant insurance company. Further, while coming to such conclusion, the Tribunal also recorded a categorical finding that the car coming in the opposite direction dashed the tractor and trailer, thereby the driver lost control over the vehicle and then fell on the car of the petitioner. In such circumstances, in the absence of any evidence put forth by the Insurance Company, the contention that there was contributory negligence on the part of both the drivers of the cars cannot be accepted and this Court is not inclined to interfere with the finding recorded by the Tribunal.

18. Coming to the quantum of compensation awarded by the Tribunal is concerned it is evident from the record that the petitioner was doing business in Cement, paints and steel in the name and style of Sri Thirumala Paints and Hardwares at Rayachoty. In order to prove the same, the petitioner filed copies of income tax returns which were marked as Ex.A9. A perusal of the same would show that the petitioner had filed return in relation to assessment year 2014-2015 for an amount of Rs.3,85,750/- and the same is not disputed by the insurance company.

19. By taking into consideration of the disability certificate issued by the District Medical Board, Kadapa which was marked as Ex.A7, the Tribunal assessed the compensation and awarded an amount of Rs.18,71,400/- under various heads, together with interest @ 8% p.a. from the date of petition till the date of realization. Though, the learned counsel for the appellant would strenuously contend that the income fixed by the Tribunal was excessive, a perusal of the order under challenge, it is evidence that the same was fixed by placing reliance on income tax returns filed by the petitioner, which remain undisputed. For all the aforesaid reasons, this Court does not find any illegal or infirmity the order under challenge.

20. Accordingly, the appeal is dismissed. There shall be no order as to costs.

JUSTICE T.C.D. SEKHAR

Dt.06.11.2026
SR

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

M.A.C.M.A.No.82 OF 2019

Dt.06.11.2026
SR