APHC010026782017

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: 1856/2017

Between:

1. APSRTC, ANANTHAPURAMU DIST, REP. BY ITS REGIONAL MANAGER, ANANTHAPURAMU, ANANTHAPURAMU DISTRICT. (OWNER OF BUS BEARING NO: AP-28-Z-5895)

...APPELLANT

AND

1. U THIPPAIAH ANANTHAPURAMU DIST 1 OTHER, S/O. LATE ABANNA, HINDU, AGED ABOUT 46 YEARS, CULTIVATION, R/O. AVULANNA VILLAGE, BELUGUPPA MANDAL, ANANTHAPURAMU DISTRICT.
2. Y YUVARAJU, S/O. KRISTAPPA, HINDU, AGED ABOUT 45 YEARS, DRIVER OF APSRTC, DEPOT, KALYANDURGAM, ANANTHAPURAMU DISTRICT

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High CourtAggrieved by the Judgment and Decree dated: 03.02.2017 in O.P. No: 356/2014 on the file of the Motor Accidents Claims Tribunal - Cum - III Additional District & Sessions Judge, Fast Track Court, Ananthapuramu

IA NO: 1 OF 2017(MACMAMP 3389 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 OP.No. 356 of 2014 on the file of the MACT-Cum-III Additional District & Sessions Judge, Fast Track Court, Ananthapuramu, Ananthapuramu District and pass

IA NO: 4 OF 2017(MACMAMP 26420 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: 1856 OF 2017

JUDGMENT:

This Motor Accident Civil Miscellaneous Appeal is filed by the respondent No.1 against the order and decree dated 03.02.2017 in O.P.No.356 of 2014 passed by the Chairman, Motor Accidents Claims Tribunal-cum-III Additional District Judge, Ananthapuramu for allowing the petition granting compensation at Rs.4,11,000/-.

2. The parties are being referred to as 'petitioner' and 'respondents' as arrayed in the petition before the tribunal, for the sake of convenience and clarity.

3. Case of the petitioner is thus:

(a) On 16.12.2011, at about 6.30 am, while the petitioner was going on his TVS XL moped bearing No.AP-02-L-8211 towards Beluguppa and when he reached warehouse, the APSRTC Bus bearing No.AP-28-Z-5895 came in a rash and negligent manner and dashed against the motor cycle of the petitioner and as a result of which, he fell down, sustained multiple injuries. Immediately after the accident, he was shifted to the Government General Hospital, Ananthapuramu and later, he was shifted to Vatsalya Hospital, Ananthapuramu.

(b) Petitioner was aged about 43 years, hale and healthy, doing agricultural works and seasonal business and was earning Rs.10,000/- per month, as on the date of the accident and contributing the same for the maintenance of his family. Due to the said accident, despite treatment taken by the petitioner, he could not recover and the petitioner paid Rs.1,50,000/- towards treatment. The accident occurred due to rash and negligent driving of the driver of APSRTC bus bearing No.AP-28-Z-5895 and as such, a case in Crime No.80 of 2011 is registered of the offences under Sections 337 and 338 of Indian Penal Code

(hereinafter referred to as 'the Code') against the driver of APSRTC Bus. Respondent Nos.1 and 2 are jointly and severally liable to pay compensation.

4. Respondent No.1 filed counter refuting the averments made in the petition, wherein, *inter alia* contended that there was no negligence on the part of the respondent No.2, petitioner claimed excessive compensation, accident occurred due to his rash and negligent riding, 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 petitioner U.Thippaiah received injuries in motor vehicle accident on 16.12.2011 at about 6.30 am, near warehouse on Beluguppa, Kalyandurg road, due to rash and negligent driving of driver of APSRTC Bus bearing No.AP-28-Z-5895?
>
> 2) Whether the petitioner is entitled to receive compensation, if so to what extent and from whom?
>
> 3) To what relief?

6. During trial, petitioner himself examined as PW.1 and has got examined the doctor as PW.2, and filed Exs.A1 to A4 documents. As against the said evidence, respondent No.1 has got examined the driver of APSRTC Bus as RW.1 and no documents are filed. At the culmination of trial, the learned Tribunal allowed the petition awarding compensation of Rs.4,11,000/- with interest at 7.5% per annum. Feeling aggrieved by the said order and decree dated 03.02.2017, respondent No.1 preferred the instant appeal urging the following grounds:

i) The order of the learned Tribunal is illegal, arbitrary, unjust, contrary to law and weigh of evidence.

ii) The learned Tribunal failed to see that there was no rash and negligent driving on the part of respondent No.2.

iii) The learned Tribunal failed to see that the petitioner was at fault in commission of accident.

iv) The learned Tribunal failed to see that non-joinder of proper and necessary parties i.e. owner and insurer of TVS XL Moped is not maintainable.

v) The learned Tribunal ought to have held that there was contributory negligence on the part of the petitioner.

vi) The learned Tribunal ought to have seen that the petitioner did not file any document to prove his income and erroneously awarded compensation by considering the disability at 50%, and with other grounds, prayed to allow the appeal.

7. Heard Sri Ch. Ramesh Babu, learned counsel representing Sri Aravala Rama Rao, learned Standing Counsel for APSRTC and Sri Ravindra Prasad, learned counsel for the respondent No.1.

8. Perused the material available on record including the impugned order.

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

1. Whether the petitioner sustained injuries in the accident dated 16.12.2011 occurred due to the rash and negligent driving of respondent No.2?
2. Whether the petitioner is entitled for compensation? If so, to what amount?
3. Whether the order and decree dated 03.02.2017 passed by the learned Tribunal are sustainable in facts and law?
4. To what relief?

10. Point No.1:

(a) As seen from the record, absolutely there is no dispute in respect of the factum of accident and to prove the manner and measure of accident, petitioner filed examination-in-chief affidavit in lieu of his chief examination by reiterating the averments made in the petition and testified that on 16.12.2011, at about 6.30 am, while he was going on TVS XL moped bearing No.AP-02-L-

8211 towards Beluguppa to attend labour works and when he reached warehouse, the APSRTC Bus bearing No.AP-28-Z-5895 came in a rash and negligent manner and dashed against his motor cycle and as a result of which, he fell down and sustained multiple injuries and immediately after the accident, he was shifted to Government General Hospital, Ananthapuramu and later, shifted to Vatsalya Hospital, Ananthampuramu and since the accident occurred due to the rash and negligent driving of respondent No.2, a case in Crime No.80 of 2011 is registered of the offences under Sections 337 and 338 of the Code. Nothing useful material is elicited in the cross examination of PW.1. Having stated that the accident has not occurred due to his rash and negligent driving, respondent No.1 categorically admitted about his registration of crime against him.

(b) Ex.A1/First information report reveals that a case in Crime No.80 of 2011 is registered of the offences under Sections 337 and 338 of the Code against respondent No.2 and after completion of investigation, police laid charge sheet *vide* Ex.A3 alleging that the accident occurred due to the rash and negligent driving of respondent No.1 only. Respondents have not adduced any rebuttal evidence. So, in the absence of any rebuttal evidence of PWs.1 and 2, which is buttressed by Exs.A1 & A3, clinchingly proves that the accident occurred due to the rash and negligent driving of the respondent No.2. Further, as seen from Ex.A2/Wound certificate, petitioner sustained injuries in the road traffic accident. As per the material brought on to the record, this court came to the conclusion that the accident occurred due to the rash and negligent driving of APSRTC bus bearing No.AP-28-Z-5895 by its driver and the petitioner sustained injuries in the said accident. Hence, this point is accordingly answered in favour of the petitioner.

11. Point No.2:

(a) As per the version of the petitioner, he was hale and healthy, doing agricultural works and seasonal business and was earning Rs.10,000/- per month and due to the accident, he sustained multiple grievous injuries and

underwent surgeries, incurred expenditure, lost income and suffered disability and due to the disability, he is not in a position to attend his regular works and lost income.

(b) To substantiate the version of the petitioner, he has got examined the doctor as PW.2 and he testified that the petitioner sustained fracture injuries to the left femur, both bones of the left forearm and the lower end of the left forearm and underwent surgeries under the scheme of Aarogya Sree. PW.2 further stated that there was mild deformity of the left thigh with weakness of the left thigh muscles, limping was present due to shortening of the left lower limb, there was decreased range of movement of the left knee joint, left wrist joint and forearm joints, along with weakness of the left forearm muscles. He further stated that the petitioner had difficulty in lifting heavy weights with his left hand and in working above the left shoulder, he also had difficulty in walking long distances, standing for long durations, sitting in squatting or cross-legged position, climbing stairs and running. Finally, he stated that the petitioner sustained 50% disability due to post-traumatic sequelae as he had sustained a fracture of the left femur and fractures of both bones of the left forearm, including the lower end, as per the wound certificate. To prove disability, petitioner filed Ex.A4/Disability certificate issued by the hospital where he has taken treatment. PW2 who had issued the disability certificate had categorically stated that the petitioner had suffered 50% disability. Having considered the injuries and treatment taken by the petitioner coupled with medical record, the functional disability at 50% shall be taken into consideration.

(c) Insofar as age and income of the petitioner is concerned, he has not filed any document to prove his income. However, the learned Tribunal after considering the material placed on record, assessed the notional income at Rs.4,500/-. Admittedly, petitioner has not filed document to prove his monthly earnings. Having considered the nature of the work, the learned Tribunal rightly assessed the monthly earnings of the petitioner at Rs.4,500/-. As seen

from Ex.A2/wound certificate, age of the petitioner is 45 years. There is no contra evidence to that effect. So, it can safely be concluded that the petitioner was aged about 45 years, as on the date of the accident.

(d) So, as per the evidence of PWs.1 and 2 coupled with Exs.A1 to A4, petitioner sustained grievous injuries, underwent surgeries, admitted in hospital and took treatment, lost income during the period of treatment and also suffered functional disability at 50% and the details of compensation under each head are as follows:

I. Pecuniary Damages:

i) **Loss of earnings due to disability and future prospects:**

(a) Having considered the nature of job, age, education and other allied aspects, this court assessed the functional disability of the petitioner at 50%.

In ***Sarla Verma v. Delhi Transport Corporation***[1], Hon'ble Apex Court held thus:

> "It is necessary to reiterate that the multiplier method is logically sound and legally well established. There are some cases which have proceeded to determine the compensation on the basis of aggregating the entire future earnings for over the period the life expectancy was lost, deducted a percentage therefrom towards uncertainties of future life and award the resulting sum as compensation. This is clearly unscientific. For instance, if the deceased was, say 25 years of age at the time of death and the life expectancy is 70 years, this method would multiply the loss of dependency for 45 years virtually adopting a multiplier of 45 and even if ― ― one-third or one-fourth is deducted therefrom towards the uncertainties of future life and for immediate lump sum payment, the effective multiplier would be between 30 and 34. This is wholly impermissible."

(b) This principle applies to the permanent disability cases also. So, the loss of future earnings has to be calculated by applying the multiplier method. It is evident from the record that the petitioner was aged about 45 years, as on the date of accident and the relevant multiplier is '14'. Further, in ***National Insurance Company Limited Vs. Pranay Sethi*** [2], the Hon'ble Apex Court considered the claim for future prospects of a victim, a carpenter, who had suffered permanent disability. Since, the petitioner was aged about 45 years, 25% of the future prospects have to be taken into consideration.

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[1] (2009) 6 SCC 121
[2] 2017 (16) SCC 680

i**i) Loss of earnings (Past):**

As per the evidence of PW.s 1 and 2, the petitioner was away from work for a period of six months and it is already stated above that Rs.4,500/- per month has to be considered towards monthly earnings of the petitioner, as on the date of accident. So, he is entitled to an amount of Rs.27,000/- (Rs.4,500x6).

iii) Medical Expenses:

The fact that the petitioner received treatment under the Arogyasri scheme doesn't, by itself, disentitle him from claiming compensation towards medical expenses actually incurred by him. So, an amount of Rs.10,000/- is awarded towards medical expenses.

iv) **Attendant Charges:** In view of the judgment of Hon'ble Apex Court in ***R.D.Hattangadi Vs M/s. Pest Control (India) Private Limited and Others***[3]***,*** the Court need not be mathematical in calculating expenses towards home attendant, but ought to look upon the circumstances prevailing in the society to decide the amount and in the present case at hand, the petitioner took treatment and underwent surgeries, **was advised bed rest** and also follow up treatment, and as such, he is entitled to attendant charges for six months, which is assessed at **Rs.12,000/-.**

v) Loss of Conveyance: In ***Sidram Vs. The Divisional Manager, United India Insurance Company Limited and another***[4] (Supra), the Hon'ble Apex Court held at para No.89 as follows:

> "89. Hence, we may grant the appellant loss of conveyance and special diet up to Rs.50,000/- considering that after the accident at Kulgod-Gokak Road, the appellant was shifted to Lake view Hospital Belgaum wherein he was admitted as an indoor patient from 18.07.2012 to 06.08.2012 for 19 days, and took treatment for the injuries suffered by him, and continued to take the treatment after getting discharged from the Hospital as well."

[3] 1995 1 SCC 551
[4] (2022) 8 SCR 403

Having regard to the nature of injuries and treatment taken by the petitioner, an amount of Rs.10,000/- is awarded towards conveyance.

II) Non-Pecuniary Damages:

(i) Pain and Suffering:

The Divisional Controller, KSRTC v. Mahadeva Shetty and Another[5], the Hon'ble Apex Court held thus:

> *"A person not only suffers injuries on account of accident but also suffers in mind and body on account of the accident throughout his life and a feeling is developed that he is no more a normal man and cannot enjoy the amenities of life as another normal person can. While fixing compensation for pain and suffering as also for loss of amenities of life the features like his age, marital status and unusual deprivation he has undertaken in his life has to be reckoned".*

In view of the injuries and permanent disability sustained by the petitioner and the period of treatment taken by him, an amount of Rs.1,50,000/- is awarded towards pain and suffering.

(ii) Loss of Amenities:

In ***Pappu Deo Yadav Vs. Naresh Kumar and others[6]***, the Hon'ble Apex Court held thus:

> "The principle consistently followed by this court in assessing motor vehicle compensation claims, is to place the victim in as near a position as she or he was in before the accident, with other compensatory directions for loss of amenities and other payments. These general principles have been stated and reiterated in several decisions (Govind Yadav Vs. New India Insurance Co Limited, (2011) 10 SCC 683."

Having regard to the injuries and treatment, an amount of Rs.20,000/- is awarded towards loss of amenities.

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[5] 2003 (7) SCC 197
[6] AIR 2020 SCC 4421

Further, in ***Govind Yadav Vs. New India Insurance Co Limited***[7], Hon'ble Apex Court held thus:

> "18. In our view, the principles laid down in Aravind Kumar Mishra Vs. New India Assurance Company Limited (2010) 10 SCC 264 and Raj Kumar Vs. Ajay Kumar must be followed by all the Tribunals and the High Courts in determining the quantum of compensation payable to the victims of accident, who are disabled either permanently or temporarily . If the victim of the accident suffers permanent disability, then efforts should always be made to award adequate compensation not only for the physical injury and treatment, but also for the loss earning and his inability to lead a normal life and enjoy amenities, which he would have enjoyed but for the disability caused due to the accused".

(e) 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 2007 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***[8]***,*** 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

[7] (2011) 10 SCC 683
[8] 2013 (11) SCC 517

limitations on the powers of the appellate court to consider the entire case on facts and law".

(f) Further, in ***National Insurance Company Limited rep. By its Branch Manager v. Susheelamma and Others*** [9] , 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.

(g) And, in ***Surekha v. Santhosh***[10], 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.

h) So, in all, the petitioner is entitled to the compensation as follows:

S.No.	HEADS		CALCULATION
I	**Pecuniary damages:**		
i)	Loss of earnings due to disability (4,500 X 12 X 14 X50/100)	Rs.	3,78,000/-
ii)	Future Prospects (3,78,000X 25/100)	Rs.	94,500/-
iii)	Loss of earnings (past) for 6 months (4,500x6)	Rs.	27,000/-

[9] 2023 SCC Online AP 1725
[10] (2021) 16 SCC 467

iv)	Medical expenses	Rs.	10,000/-
v)	Attendant charges	Rs.	12,000/-
vi)	conveyance	Rs.	10,000/-
	Total		5,31,500/-
II	**Non Pecuniary expenses:**		
vii)	Pain and suffering	Rs.	1,50,000/-
viii)	Loss of amenities	Rs.	20,000/-
	Total		1,70,000/-
	TOTAL (pecuniary+non-pecuniary damages) (5,31,500+1,70,000)	Rs.	7,01,500/-

i) In this court's well considered view that in accordance with the propositions of law laid down by the Hon'ble Apex Court, the compensation of Rs. 7,01,500/- is just and reasonable. It is needless to say that though the petitioner claimed compensation of Rs.4,00,000/-, in view of the settled principles of law, just and fair compensation is to be awarded to the petitioner.

j) So far as the liability of the respondents is concerned, it is to be noted that a finding is already recorded in issue No.1, holding that driver of the APSRTC bus bearing No.AP-28-Z-5895 was solely responsible for the accident and respondent No.1/APSRTC is vicariously liable to indemnify the liability of respondent No.2/driver. Hence, this issue is answered, holding that the respondent Nos.1 and 2 are jointly and severally 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 the quantum of compensation and as such, the same is liable to be modified in view of the propositions stated *supra*. 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.4,11,000/- (Rupees Four Lakhs Eleven Thousand Only) to Rs. 7,01,500/- (Rupees Seven Lakhs One Thousand Five Hundred only)** and awarded the same to the petitioner with interest thereon at 7.5% per annum simple from the date of petition till the date of payment of realization, subject to payment of court fee on Rs.3, 01,500/- (Rupees Three Lakhs One Thousand Five Hundred only) by the petitioner before the Registry within thirty (30) days from today.

(ii) Time for deposit, as aforesaid, with interest, excluding the amount, if any, already deposited, is one (1) month from the date of receipt of a copy of this judgment.

(iii) On such deposit, the petitioner is permitted to withdraw the compensation as awarded supra along with accrued interest thereon, excluding the amount, already paid.

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

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

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SUNITHA GANDHAM, J

Dt:12.10.2026

Scs/Vns