APHC010028452016

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

MONDAY, THE 5th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 1699/2016

Between:

1. MR. GOPALAM SATYANARAYANA, GUNTUR DISTRICT AND 2 OTHERS, S/O. NAGABHUSHANAM R/O. D.NO. 26-251, SUBBAIAH THOTA, CHILAKALURIPET, GUNTUR DISTRICT.
2. SMT. GOPALAM PARVATHI, W/O. SATYANARAYANA R/O. D.NO. 26-251, SUBBAIAH THOTA, CHILAKALURIPET, GUNTUR DISTRICT.
3. SMT. MANDAVA PADMA PRIYA, W/O. UMA MAHESWARA RAO R/O. BRUNDAVAN GARDEN, GUNTUR, GUNTUR DISTRICT.

...APPELLANT(S)

AND

1. SMT V SUBBAYAMMA PRAKASAM DISTRICT AND ANOTHER, W/O. NAGIREDDY (OWNER OF LORRY BEARING NO. ABG 14620 R/O. SATYANARAYANAPURAM, ONGOLE, PRAKASAM DISTRICT.
2. THE ORIENTAL INSRUANCE CO LTD, REP. BY ITS DIVISIONAL MANAGER, OPP: KRISHNA PICTURE PALACE, KOTHAPET, GUNTUR - 522 001. (POLICY NO. 2081087 VALID FROM 6-8-2007 TO 5-8-2008 POLICY

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Courtaggrieved by the Order and Decree dated 19-01-2010 in M.V.O.P.No.542 of 2008 on the file of Motor Vehicles Accidents Claims Tribunal-Cum- Additional District Sessions Judge, Narasaraopet, Guntur District in so far as granting lesser compensation than that of claim of the appellants for the following among other

IA NO: 1 OF 2010(MACMAMP 2286 OF 2010

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 condone the delay of 40 days in filing the present appeal and pass

Counsel for the Appellant(S):

1. SRICHARAN TELAPROLU

Counsel for the Respondent(S):

1. N RAMA KRISHNA

2. .

The Court made the following:

THE HON'BLE SMT. JUSTICE SUNITHA GANDHAM

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 1699 OF 2016

JUDGMENT:

Assailing the order and decree dated 19.01.2010 passed in M.V.O.P.No.542 of 2008 by the Motor Vehicle Accident Claims Tribunal-cum-Additional District & Sessions Judge, Narasaraopet, claimants preferred the instant appeal seeking enhancement of compensation.

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

3. Case of the petitioners is thus:

On 16.03.2008 at about 10.30 A.M, while the deceased proceeding to his factory on his motor cycle bearing No.AP 07 AG 4901 and when he reached near Maddi Lakshmaiah Company, a lorry bearing No.ABG 1462 came in a rash and negligent manner and dashed against the motor cycle of the deceased and as a result of which, he died on the spot. A case in crime No.30 of 2018 is registered of the offence under Section 304-A of the Indian Penal Code (hereinafter referred to as 'the Code') against the driver of the lorry. As on the date of accident, deceased aged bout 24 years, completed commerce graduation, working as Seed Procurement Officer in Thirumala Cotton and Agro Products Private Limited, Thimmapura, was drawing salary of Rs.10,500/- per month and used to contribute his earnings to the family. Due to his sudden demise, petitioners who are legal representatives as well as dependents of the deceased lost financial support, love and affection. The accident occurred due to the rash and negligent driving of respondent No.1. Respondent No.1 is owner, respondent No.2 is insurer and both the respondents are jointly and severally liable to pay compensation. Having received notice, respondent No.1 remained *ex parte*.

4. Respondent No.2 filed counter affidavit refuting the averments made in the petition, wherein, *inter alia*, contended that the driver of the lorry had no driving license, petition is bad for non joinder of owner and insurer of motor cycle. Petitioners claim excessive compensation. Respondent No.2 is not liable to pay compensation, 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 due to the rash and negligent driving of the driver of the lorry bearing No.ABG 1462?
>
> 2) Whether the petitioners are entitled to compensation? And if so to what amount? From whom?
>
> 3) To what relief?

6. During trial, petitioner No.1 examined himself as PW1 and petitioners have got examined two independent witnesses as PW Nos.2 & 3 and filed Exs.A1 to A5, X1 and X2 documents. As against the said evidence, respondent No.2 has not adduced either oral or documentary evidence. At the culmination of trial, the learned tribunal allowed the petition in part awarding compensation of Rs.4,36,000/- with interest at 7.5%. Feeling aggrieved by the said order and decree, petitioners preferred the instant appeal urging the following grounds:

i. The order and decree dated 19.01.2010 is contrary to law, weight of evidence probabilities of the case.

ii. The learned tribunal ought to have granted total compensation of Rs.13,00,000/- as claimed by the petitioners.

iii. The learned tribunal ought to have considered the salary certificate filed by the petitioners *vide* Ex.X2 that the deceased drawing salary of Rs.10,500/- per month, as on the date of accident.

iv. The learned tribunal erroneously took the multiplier of age of mother of the deceased instead of actual multiplier of 18.

v. The learned tribunal erred in awarding the compensation under the other heads, and with other formal grounds, prayed to allow the appeal.

7. Heard learned counsel for the appellants as well as learned counsel for the respondent No.2.

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

1. Whether the accident dated 16.03.2008 occurred due to the rash and negligent driving of the respondent?
2. Whether the petitioners are entitled for compensation? If so, to what amount?
3. Whether the order and decree dated 19.01.2010 passed by the learned Tribunal are sustainable in law and facts?
4. To what relief?

9. 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 regarding the factum of accident. In order to prove the manner and method of accident, during trial, petitioner No.1 who is none other than father of the deceased filed his examination-in-chief affidavit in lieu of his chief examination by reiterating the averments mentioned in the petition. It is evident from the record that PW1 is not eye witness to the accident and to prove the manner and method of accident, petitioners relied upon the evidence of PW2. As per the version of PW2, on 16.03.2008, at 10.30 A.M, when he was standing at Maddi

Lakshmaiah company, he found the deceased who was proceeding on his two wheeler and then, a lorry bearing No.ABG 1462 came in a rash and negligent manner and dashed motor cycle of the deceased and as a result of which, deceased fell down and died on the spot and the accident occurred due to rash and negligent driving of driver of the lorry. Nothing useful material is elicited in the cross-examination of PW2. Further, respondents have not examined the driver of the lorry to prove the manner and method of accident. Non-examination of the driver of the lorry is fatal to the case of respondents.

(b) Further, as seen from Ex.A1/first information report, a case in crime No.30 of 2018 is registered of the offence under Section 304-A of the Code against the driver of the lorry bearing No.ABG 1462 and after completion of investigation, police laid Ex.A2/Charge sheet alleging that the accident occurred due to his rash and negligent driving. So, Exs.A1 and A2 supports the evidence of PW Nos.1 & 2 and no rebuttal evidence is adduced by the respondent No.2 on this aspect. So, in the absence of any rebuttal evidence of PW Nos.1 & 2 which is buttressed by Exs.A1 and A2 clinchingly proves that the accident occurred due to the rash and negligent driving of the driver of the lorry bearing No.ABG 1462. Added to it, as seen from the Ex.A3/postmortem report and Ex.A4/inquest report, deceased sustained injuries in the road traffic accident and died on the spot. As per the material brought on to the record, this court came to the conclusion that the accident occurred due to rash and negligent driving of the lorry bearing No.ABG 1462 by its driver, deceased sustained injuries 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 the version of the petitioners, deceased hale and healthy, aged about 24 years, completed graduation, was working as Seed Procurement Officer in Thirumala Cotton and Agro Products Private Limited, Thimmapuram, was drawing monthly salary of Rs.10,500/- and due to the sudden demise of

the deceased, petitioners lost financial support, love and affection. Petitioners who are legal representatives as well as dependents of the deceased are entitled for compensation.

(b) So far as income of the deceased is concerned, to substantiate the version of the petitioners, they have got examined PW3/Cashier-Cum-manager of Thirumala Cotton and Agro Products Private Limited, Thimmapuram and having produced Ex.X1/authorization letter and Ex.X2/salary certificate of the deceased, testified that the deceased joined as Seed Procurement Officer, worked from 01.02.2008 to 16.03.2008 and was drawing salary of Rs.10,500/- per month, as on the date of accident. Learned counsel for the respondent No.2 would argue that the deceased worked hardly one and half month and Ex.X2 has not been proved. The said contention cannot be taken into consideration. As rightly argued by the learned counsel for the petitioners, had the deceased been alive, he would have earned more and because of the sudden demise, petitioners lost financial support of the deceased. Petitioners not only adduced oral evidence in respect of the earnings of the deceased but also produced documentary evidence vide Exs.X1 and X2 and proved the same through PW3. So, it can safely be held that the deceased worked as Seed Procurement Officer in Thirumala Cotton and Agro Products Private Limited, Thimmapuram and was drawing a salary of Rs.10,500/- , as on the date his death.

(c). Further, as rightly argued by the learned counsel for the petitioners learned Tribunal erroneously considered the age of the mother of the deceased to calculate loss of dependency which is against to the principles of law. As seen from Ex.A5/birth certificate of the deceased, he was aged about 24 years and was unmarried, as on the date of the accident. There is no contra evidence to that effect. So, it can safely be concluded that the deceased aged about 24 years, was unmarried and the relevant multiplier is ‘18’.

(d). Applying the principles in ***Sarala Varma and Others Vs. Delhi Transport Corporation and another***[1], ***National Insurance Company Ltd Vs. Pranay Sethi and others***[2], ***Magma General Insurance Company Limited v. Nanu Ram alias Chuhru Ram and others***[3] this court has assessed the compensation as follows:

Sl. No.	**Heads**		**Calculation**
1.	Annual Income (Rs.10500 X 12)	Rs.	1,26,000/-
2.	Deduction towards personal expenses (1,26,000x1/2)	Rs.	63,000/-
3.	Total income (1,26,000-63,000)	Rs.	63,000/-
4.	Future prospects (40% of 63,000)	Rs.	25,200/-
5.	Total loss of dependency (63000+25,200)x18	Rs.	15,87,600/-
6.	Loss of consortium	Rs.	40,000/-
7.	Funeral expenses	Rs.	15,000/-
8.	Loss of estate	Rs.	15,000/-
	Total	Rs.	**16,67,600/-**

(e). In the given facts and circumstances of the case, petitioners are entitled for Rs.**16,67,600/- (Sixteen lakhs sixty seven thousand six hundred rupees only)** and in this courts well considered view, the compensation awarded is just, adequate and reasonable, as the deceased left his dependents.

(f). So far as liability of the respondent Nos.1 and 2 is concerned, a finding is already recorded in point No.1 holding that the driver of lorry bearing No.ABG 1462 was solely responsible for the accident and as such, respondent No.1/Owner of the lorry bearing No.ABG 1462 is liable for the acts committed by its driver. Respondent No.2 did not dispute the validity period of

[1] (2009) 6 SCC 121
[2] (2017) 16 SCC 680
[3] (2018) 18 SCC 130

the policy. So, it can safely be held that respondent No.2 insurance company is liable to indemnify the liability of respondent No.1. Hence, respondent Nos.1 and 2 are jointly and severally liable to pay compensation. Accordingly, this issue is answered in favour of the petitioners and against the respondents.

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. 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 allowed, awarding compensation of **Rs.16,67,600/- (Sixteen lakhs sixty seven thousand six hundred rupees only)** 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 Nos.1 and 2 jointly and severally.

(ii) Out of the said compensation amount, an amount of **Rs.7,67,800/- (Rupees Seven lakhs sixty seven thousand eight hundred only)** is awarded to the petitioner No.1. **Rs.7,00,000/- (Rupees Seven lakhs only)** is awarded to the petitioner No.2 and **Rs.2,00,000/- (Rupees Two lakhs only)** is awarded to the petitioner No.3. Apportionment is ordered accordingly.

(iii) Time for deposit of the compensation amount before the learned Tribunal, as aforesaid, with interest, excluding the amount, if any, already deposited, is (02) two months.

(iv) On such deposit, all the 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.

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SUNITHA GANDHAM, J

05.10.2026

Vns

Whether the order is :

✓

Speaking Yes/No / Reasoned Yes/No

✓

Reportable Yes/No / Non-Reportable Yes/No