APHC010054682016

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: 1779/2016

Between:

1. BHUDATI SIVA PAVITHRA @ PRAVITHRA & 3 OTHERS, W/O. LATE SAMBASIVA RAO, AGED ABOUT 31 YEARS, OCC: HOUSEWIFE,
2. BHUDATI NAVYA,, D/O. LATE SAMBASIVA RAO, AGED ABOUT 11 YEARS, OCC: STUDENT,
3. BHUDATI AISHWARYA,, D/O. LATE SAMBASIVA RAO, AGED ABOUT 9 YEARS, OCC: STUDENT,
4. BHUDATI SUSEELA,, W/O. LATE NARAYANA, AGED ABOUT 59 YEARS, OCC: HOUSEWIFE, (ALL ARE R/O. GANAPATHINAGAR, 14TH WARD, MANGALAGIRI, GUNTUR DISTRICT

...APPELLANT(S)

AND

1. CH VAMSIDHAR ANOTHER, S/O. SRINADH, AGED ABOUT MAJOR, OWNER OF CAR BEARING AP 37AK 7007 R/O. DOOR NO.1-238, GOLLAPUDI VILLAGE, VIJAYAWADA RURAL MANDAL, KRISHNA DISTRICT.
2. SHRIRAM GENERAL INSURANCE COMPANY LTD, REP BY ITS GENERAL MANAGER, INDUSTRIAL AREA, SITAPURA, JAIPUR, 302022, RAJASTHAN STATE. (RESPONDENT NO.1 IS NOT NECESSARY PARTY IN THIS APPEAL)

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Courtagainst the Decree and order dated 26-2-2015 made in M.V.O.P.No. 1308 of 2011 on the file of the MACT-cum-II Additional District Judge, Guntur

IA NO: 1 OF 2016(MACMAMP 1015 OF 2016

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 207 days in preferring the above appeal and pass

Counsel for the Appellant(S):

1. B PARAMESEWARA RAO

Counsel for the Respondent(S):

1. MAHBOOB HUSSAIN
2. GUDI SRINIVASU

The Court made the following:

THE HON'BLE SMT. JUSTICE SUNITHA GANDHAM

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 1779 OF 2016

JUDGMENT:

This appeal is filed by the petitioners against the order and decree dated 26.02.2015 in M.V.O.P.No.1308 of 2011 passed by the Chairman, Motor Vehicle Accident Claims Tribunal-cum-II Additional District Judge, Guntur, 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. **The case of the petitioners is thus**:

On 01.01.2011 at about 6.15 A.M., while the deceased going by walk on the left side of the road near I.B.B.P Petrol bunk on the National High Way at Atmakuru Village, the driver of the car bearing No.AP37 AK 7007 drove the same in a rash and negligent manner and dashed against the deceased and as a result of which, deceased/Bhudati Sambasiva Rao sustained severe injuries and died on the spot. As on the date of the accident, deceased hale and healthy, was aged about 32 years, working as carpenter in Sambasiva Timber Furniture was earning Rs.9,000/- per month and contributing the same for maintenance of his family. Due to the sudden demise, all the petitioners, who are dependants and legal representatives of deceased lost their financial support as well as love and affection. The accident occurred due to the rash and negligent driving of driver of the car bearing No.AP 37 AK 7007 and as such, a case in Crime No.1 of 2011 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 offending vehicle. Respondent No.1 is owner, respondent

No.2 is insurer of car bearing No.AP 37 AK 7007 and as such, both the respondents are jointly and severally liable to pay the compensation.

4. Having received summons, respondent no.1 remained *ex parte*.

5. Respondent No.2 filed written statement refuting the averments made in the petition, wherein, *inter alia* contended that the driver of the car had no valid driving license, as on the date of accident, there was no negligence on the part of the driver of the car, petitioners claim excessive compensation, and with other formal denials, prayed to dismiss the petition.

6. 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 Vehicle Car bearing No.AP37 AK 7007?
>
> 2) Whether the petitioners are entitled to compensation, and if so, to what amount and against whom?
>
> 3) To what relief?

7. During trial, petitioner No.1 examined herself as PW.1 and the petitioners have got examined independent witnesses as PW Nos.2 to 4, and filed Exs.A1 to A7 and X1 documents. As against the said evidence, respondent No.2 has got examined its employee as RW.1 and no documents are filed. At the culmination of trial, learned Tribunal awarded compensation of Rs.7,83,000/- for the untimely death of Sri Bhudati Sambasiva Rao.

8. Being aggrieved by the said order and decree, the petitioners/claimants preferred the instant appeal, urging the principal grounds that:

i. The order and decree of the learned Tribunal is contrary to law, weight of evidence and probabilities of the case.
ii. The learned Tribunal ought to have considered the evidence of PW.1 to PW.4 and Ex.A1 to A7.
iii. The learned Tribunal ought to have awarded interest @ 18% per annum instead of granting 9% per annum.

iv. The learned Tribunal failed to consider the evidence available on record and erred in taking income of the deceased at Rs.4,500/- per month.

v. The learned Tribunal erred in considering the established principles of law to award just and fair compensation, and with other formal grounds, prayed to allow the appeal.

9. Heard Smt. V. Sailaja, learned counsel representing Sri B.Parameswara Rao, learned counsel for the petitioners and Sri Gudi Srinivasu, learned counsel for the respondent No.2/Insurance Company.

10. Perused petition and other material available on record including the impugned order dated 26.02.2015.

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

(1) Whether Sri Bhudati Sambasiva Rao died in the accident dated 01.01.2011 occurred due to the rash and negligent driving of the driver of the car bearing No.aP 37 AK 7007?

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

(3) Whether the order and decree dated 26.02.2015 passed in M.V.O.P.No.1308 of 2011 by the Chairman, Motor Accident Claims Tribunal-cum-II Additional District Judge, at Guntur, are sustainable in facts and law?

(4) To what relief?

12. 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.

13. **Point No.1:**

(a) Now, it is necessary to analyze the evidence on record to answer the points. As seen from the record, during trial, petitioner No.1 filed examination-in-chief in lieu of chief examination by reiterating the averments mentioned in the petition. In order to prove the manner and method of accident, petitioners relied upon the evidence of PW Nos.2 and 4 coupled with Exs.A1 to A7 and X1 documents. It is evident from the record that PW.1 who is wife 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 Nos.2 and 4 and they testified that on 01.01.2011 at about 6.15 a.m., while the deceased going by walk on the left side road near I.B.B.P Petrol bunk on the National High Way at Atmakuru Village, the driver of the car bearing No.AP37 AK 7007 drove the same in a rash and negligent manner and dashed against Sri Bhudati Sambasiva Rao and as a result, he died on the spot. Nothing useful material is elicited in the cross examinations of PW Nos.2 and 4.

(b) Further, Ex.A1/First information report and Ex.A2/Charge sheet also clearly reveal that the accident occurred only due to the rash and negligent driving of the driver of the car. So, the evidence of PW Nos.2 and 4 coupled with the Ex.A1 and Ex.A2 clinchingly proves that the accident occurred due to the rash and negligent driving of driver of the car. There is no rebuttal evidence to that effect. Ex.A3/Postmortem report and Ex.A4/Inquest report reveal that the deceased sustained injuries in the accident and succumbed to the said injuries. Further, as per Ex.A5/Motor Vehicles Inspector report, accident was 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 car bearing No.AP 37 AK 7007 and Sri Bhudati Sambasiva Rao/deceased sustained injuries in the accident and succumbed to the said injuries. Hence, this point is answered in the affirmative and in favour of the petitioners.

14.**Point No.2:**

(a) As per the version of petitioners, petitioner No.1 is wife, petitioner Nos.2 and 3 are children and petitioner No.4 is mother of the deceased. As on the date of the accident, deceased hale and healthy, aged about 32 years, working as Carpenter in Sambasiva Timber Furniture at Atmakur, Mangalagiri and was earning Rs.9,000/- per month, due to the sudden demise of husband of petitioner No.1, all the petitioners lost their financial support as well as love and affection. As seen from A3/Post-mortem report and Ex.A4/Inquest report, age of the deceased is mentioned as 32 years. There is no contra evidence to that effect. So, it can safely be concluded that the age of the deceased was 32 years as on the date of accident. The relevant multiplier is '16'. The petitioners who are none other than the legal representatives and dependants of the deceased are entitled for compensation.

(b) So far as earnings of the deceased is concerned, petitioners have got examined owner of Sambasiva Timber Furniture as PW.3 and filed Ex.A6/Salary certificate issued by PW.3. It came in the evidence of PW.3 that from 2004 till the date of accident the deceased worked in his furniture shop and he used to pay an amount of Rs.300/- per day. Further, having filed Ex.X1/Registration certificate of his shop under the name and style of Sambasiva Timber Furniture, he admitted Ex.A6/Salary certificate issued by him. Except posing bald suggestions that the said document *vide* Ex.X1 is fabricated, respondents have not adduced any rebuttal evidence and there is no reason to disbelieve the evidence of PW.3 coupled with Exs.A6 and X1. The learned Tribunal erroneously assigned reasons that the petitioners failed to produce attendance certificate and other documents supporting Exs.A6 and X1. The best possible evidence which is available with the petitioners is produced by the petitioners and the learned Tribunal erred in not considering the material produced by the petitioners.

(c) Admittedly, petitioners filed the claim application seeking compensation of Rs.10,00,000/- and the learned Tribunal awarded compensation of Rs.7,83,000/- and that petitioners have not filed any petition, seeking enhancement of compensation, however, in view of the settled principles of law, this court has to award just and fair compensation. 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] ***and 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.9000 X 12)	Rs.	1,08,000/-
2.	Deduction towards personal expenses (1,08,000x1/4)	Rs.	27,000/-
3.	Total income (1,08,000-27,000)	Rs.	81,000/-
4.	Future prospects (40% of 81,000)	Rs.	32,400/-
5.	Total loss of dependency (81,000+32,400)x16	Rs.	18,14,400/-
6.	Loss of consortium (40,000x4) (spousal+parental+filial)	Rs.	1,60,000/-
7.	Funeral expenses	Rs.	15,000/-
8.	Loss of estate	Rs.	15,000/-
	Total	Rs.	**20,04,400/-**

(d). In the given facts and circumstances of the case, petitioners are entitled for **Rs.20,04,400/- (Rupees Twenty Lakhs Four Thousand Only)** and in this courts well considered view, the compensation awarded is just, adequate and reasonable, as the deceased left his dependents.

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

(e). So far as liability of the respondents is concerned, a finding is already recorded in point No.1 holding that the accident occurred due to the rash and negligent driving of driver of the car and as such, the respondent No.1, who is owner of the car is liable to indemnify the acts done by his driver. Respondent No.2 did not dispute the validity period of the policy and as such, 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.

15. 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.

16. Point No.4:

In the result, and in view of the findings in point Nos.1 to 3, this Motor Accident Civil Miscellaneous Appeal is allowed, and the compensation awarded by the learned Tribunal is enhanced **from Rs.7,83,000/- (Rupees Seven Lakhs Eighty Three Thousand only) to Rs.20,04,400/- (Rupees Twenty Lakhs Four Thousand only)** together with interest at 7.5% from the date of the claim petition till the date of realization subject to payment of additional court fee on Rs.10,04,000/- (Rupees Ten Lakhs Four Thousand only) by the petitioners before the Registry within thirty (30) days from today.

(ii) Out of the said compensation amount, **Rs.10,04,400/- (Rupees Ten Lakhs Four Thousand Four Hundred only)** is awarded to the petitioner No.1, Rs.4,00,000/- each is awarded to the petitioner Nos.2 & 3 and Rs.2,00,000/- is awarded to the petitioner No.4. Apportionment is ordered accordingly.

(iii) Time for deposit, as aforesaid, with interest, excluding the amount, if any, already deposited, is two (02) months from the date of receipt of a copy of this judgment.

(iv) On such deposit, petitioner Nos.1 & 4 are permitted to withdraw the compensation as awarded supra along with accrued interest thereon, excluding the amount, already paid.

(v) The award amount of petitioner Nos.2 & 3 shall be kept in fixed deposit, in any nationalized bank, till they attain majority.

(vi) 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

Dated 12.10.2026
SCS

THE HON'BLE SMT. JUSTICE SUNITHA GANDHAM

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 1779 OF 2016

Dated: 12.10.2026

SCS