APHC010117872023

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3333]**
(Special Original Jurisdiction)

THURSDAY, THE 29th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 101/2023

Between:

1. BATHULA PUNNA RAO, S/O. YELLAIAH, NOW AGED ABOUT 25 YEARS, OCCUPATION AT PRESENT NIL NAIDUPET 2ND LINE, GUNTUR CITY, GUNTUR DISTRICT, GUNTUR JCJC

...APPELLANT

AND

1. ANDHRA PRADESH STATE ROAD TRANSPORT CORPORATION, REP. BY ITS REGIONAL MANAGER, GUNTUR

2. SHAIK MASTAN VALI, S/O. MASTAN, (DRIVER OF RTC BUS AP 11 Z 5515) KUMMARIPALEM, PIDUGURALLA TOWN, GUNTUR DISTRICT. (THE 2ND RESPONDENT IS NOT NECESSARY PARTY AS NO CLAIM IS MADE AGAINST HIM IN THE APPEAL)

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Courtbe pleased to set aside the Judgment and decree passed in M.V.O.P. 541/2017 on the file the Chairman, Motor Accidents Claims Tribunal-cum-I Addl. District Judge, Guntur dated 11-1-2023 and enhance the amount of compensation as entitled by the appellant together with interest @ 12PERCENT per annum from the date of filing the Original Petition till the date of realization and pass

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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 be pleased to permit her to amend the amount of compensation claimed from Rs.3,00,000/- to Rs.11,00,000/- in the Original Petition in MVOP No. 541/2017 on the file the court of the Chairman, Motor Accidents Claims Tribunal-cum-I Addl. District Judge, Guntur and to pass

Counsel for the Appellant:

1. SIVA PRASAD KATAKAMSETTY

Counsel for the Respondent(S):

1. ARAVALA RAMA RAO(SC FOR APSRTC KKAC)

The Court made the following:

JUDGMENT:-

This appeal is filed by the appellant/claim petitioner/injured aggrieved by the award dated 11.01.2023 passed by the Chairman, Motor Accident Claims Tribunal – cum – I Additional District Judge, Guntur in M.V.O.P.No.541 of 2017, whereby, the Tribunal awarded compensation of Rs.1,05,000/- as against the claim of Rs.3,00,000/-.

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

3. The petitioner is the injured, the 2nd respondent is the driver of the bus bearing No.AP-11-Z-5515 owned by the 1st respondent corporation. On 25.05.2016, at about 03.00 p.m., while the petitioner was riding on a motorcycle as a pillion from Piduguralla to Tangeda, near Jinkalapalem cross road, Machavaram mandal, Guntur district, the bus bearing No.AP-11-Z-5515 being driven by the 2nd respondent high speed, rash and negligent manner, hit the motorcycle, due to which, the petitioner fell down and sustained grievous injuries i.e., grade-III compound fracture of distal femur on right side and fractures of both bones at shaft of right tibla. The incident was reported to Police who registered a case against the 2nd respondent in Crime No.40 of 2016 for the offence punishable under Section 338 of the Indian Penal Code. After the accident, the petitioner was shifted to Dr. R. Venkateswarlu hospital, Piduguralla and thereafter to GBR Super Specialty Hospital, Narasaraopet where the petitioner was treated as in-patient from 27.05.2016 to 06.06.2016. The petitioner claims to be an intermediate student and that he used to earn Rs.3,000/- per month by attending agricultural works on weekends and holidays. Seeking compensation of

Rs.3,00,000/- for the injuries sustained by the petitioner in an accident that occurred due to the rash and negligent driving of the 2nd respondent, the petitioner filed a claim petition before the Tribunal under Section 166 of the Motor Vehicles Act read with Rules 455 and 476 of the Andhra Pradesh Motor Vehicle Rules.

4. The 1st respondent – corporation contested the claim petition by filing its written statement, wherein it is contended that the rider of the motorcycle on which the petitioner was travelling plied with high speed in rash and negligent manner without following traffic rules and regulations; that the petitioner sustained injuries due to the negligence of the rider of the motorcycle; that the petitioner foisted a criminal case to claim compensation. The 2nd respondent has also filed his individual written statement denying the averments of the claim petition; further, it is contended that the rider of the motorcycle on which the petitioner was travelling came across the road in a zig-zag manner and caused the accident; that there is no rash and negligent driving on the part of the 2nd respondent; that the criminal case foisted against him in C.C.No.242 of 2016 was settled before Lok-Adalat and that he was acquitted under Section 320(8) of the Code of Criminal Procedure. Hence, requested to dismiss the claim petition.

5. Basing on the above pleadings, the Tribunal framed the following issues for trial:

1) Whether the accident occurred due to the rash and negligent driving of the vehicle bearing No.A P 11 Z 5515 (RTC Bus) by it's driver on 25-5-2016 at about 3 p.m., near Jinkalapalem cross road, Machavaram Mandal, Guntur District and caused injuries to the Petitioner?

2) Whether the petitioner is entitled for compensation and if so, to what amount and from whom?

3) To what relief?

6. During the course of trial, the petitioner got examined P.Ws.1 and 2, got marked Exs.A1 to A3 along with Exs.X1 to X3. No ocular or documentary evidence was relied on by the respondents.

7. The Tribunal, after considering all the facts and material available before it, awarded Rs.1,05,000/- to the petitioner by holding that respondent No.1 is liable to pay. Seeking enhancement of the compensation awarded by the Tribunal, the claim petitioner filed the present appeal by contending that the Tribunal erred in not granting compensation under the head of loss of amenities in life; that the Tribunal erred in not granting Rs.30,000/- towards removal of implants though the same was deposed by P.W.2 in his evidence.

8. Heard Sri. Katakamsetty Siva Prasad, learned counsel for the appellant and P. Venkata Rao, learned Standing Counsel for the respondent corporation.

9. Perused the entire material available on record. In order to prove that the accident occurred due to the rash and negligent driving of the 2nd respondent, the petitioner got himself examined as P.W.1 and reiterated the manner of the accident. Though he was cross examined by the respondents, nothing adverse was elicited to prove that there was no negligence on the part of the 2nd respondent. Furthermore, the petitioner got marked Ex.A1 – FIR in crime No.40 of 2016 on the file of Machavaram police station and Ex.A2 – certified copy of the charge sheet filed by the Police against the 2nd respondent, on the file of the Court of the Junior Civil Judge, Piduguralla in C.C.No.242 of 2016. The Tribunal, relying upon the ocular evidence of the petitioner coupled with Exs.A1

and A2 filed by the Police against the 2nd respondent came to a conclusion that the accident occurred due to the rash and negligent driving of the 2nd respondent. Thus, in the absence of any rebutting evidence on the part of the respondents, the Tribunal, relying upon the evidence of the petitioner coupled with Exs.A1 and A2 has rightly answered issue No.1 in favour of the petitioner by holding that the petitioner received injuries in an accident that occurred due to the rash and negligent driving of the 2nd respondent. As the said finding is on substantial basis, the same need not be interfered with by this Court.

10. Now, coming to quantum of compensation, the petitioner got examined P.W.2 – doctor who treated the petitioner. P.W.2 is orthopedic surgeon in GBR Super Specialty hospital. In his evidence, P.W.2 deposed that on 25.05.2016, the petitioner got admitted in the hospital with grade-III compound fracture of distal femur on right side and fractures of both bones at shaft of right tibla; that the petitioner was treated under NTR Vaidya Seva Insurance scheme and was discharged on 06.06.2016. The Tribunal, considering the evidence of P.W.2 coupled with Ex.A3 – wound certificate, awarded Rs.40,000/- to each fracture i.e., Rs.80,000/- towards two fracture injuries. In addition, the Tribunal awarded Rs.20,000/- towards pain and suffering and Rs.5,000/- towards better nutrition and attendant charges. In total, the Tribunal awarded Rs.1,05,000/- to the petitioner and directed the 1st respondent corporation to pay the same.

11. However, it is the case of the petitioner that due to the injuries sustained in the accident, he suffered permanent disability that leads to restriction of his right knee joint beyond 110 degrees and that he should be granted compensation under the head of permanent disability. But,

admittedly, the petitioner has not filed or placed on record any disability certificate issued by a competent Medical Board to assess his permanent or functional disability nor P.W.2 deposed regarding any permanent disability suffered by the petitioner. In the absence of a formal assessment by a medical board, this Court cannot determine the exact percentage of physical impairment to evaluate its corresponding impact on the petitioner's earning capacity. Without there being any supporting evidence with regard to the disability suffered by the petitioner due to the injuries sustained by him in the accident, no compensation can be awarded to him under the head of loss of amenities in life and under the head of permanent disability. Thus, this Court is of the opinion that the Tribunal has rightly awarded Rs.1,05,000/- to the petitioner without considering the claim of the petitioner for compensation under the head of loss of future earnings or permanent disability.

12. But, during the course of examination, P.W.2 – the doctor who treated the petitioner, deposed that the petitioner would have to incur an expenditure between Rs.30,000/- - Rs.40,000/- for removal of the implants that were placed at the time of surgery. But, the Tribunal has not awarded any such amount in the impugned award. Thus, considering the fact that the petitioner would have to incur some expenditure at the time of removal of implants, this Court feels it appropriate to award Rs.30,000/- to the petitioner. Thus, in total, the petitioner is entitled for a compensation of Rs.1,35,000/- [Rs.1,05,000/- + Rs.30,000/-].

13. Accordingly, this appeal is partly allowed and the amount of compensation awarded by the Tribunal by way of the impugned award dated 11.01.2023 is enhanced from Rs.1,05,000/- to Rs.1,35,000/-. There shall be no order as to costs.

Consequently, miscellaneous applications pending, if any, shall stand closed.

JUSTICE V. SUJATHA

Date:29.10.2026.

Gss