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APHC010170192016

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: 603/2016

Between:

1. THE APSRTC, REP. BY ITS MANAGING DIRECTOR, VICE CHAIRMAN, MUSHEERABAD, HYDERABAD, OWNER OF THE BUS BEARING NO. AP 11 Z 2467, ATMAKUR DEPOT.

...APPELLANT

AND

1. PADMAVATHI 6 OTHERS, /O LATE M. MALLIKARJUNA REDDY R/O H.NO. 1/25, R. KONTHALAPADU VILLAGE, KURNOOL DISTRICT.
2. SIVANI, D/O LATE M. MALLIKARJUNA REDDY, MINOR, REP. BY HER MOTHER (R1) R/O H.NO. 1/25, R. KONTHALAPADU VILLAGE, KURNOOL DISTRICT.
3. HEMANTH KUMAR REDDY, S/O LATE M. MALLIKARJUNA REDDY, MINOR, REP. BY HIS MOTHER (R1) R/O H.NO. 1/25, R. KONTHALAPADU VILLAGE, KURNOOL DISTRICT.
4. M YELLA REDDY, S/O NOT KNOWN, R/O H.NO. 1/25, R. KONTHALAPADU VILLAGE, KURNOOL DISTRICT.
5. RUKMINAMMA, W/O M. YELLA REDDY R/O H.NO. 1/25, R. KONTHALAPADU VILLAGE, KURNOOL DISTRICT.
6. D JAMAL BASHA, S/O D.P. HUSSAIN SAHEB,. OWNER OF THE TATA SUMO R/O H.NO 9/116, KRISHNA NAGAR, KURNOOL
7. M/S THE NEW INDIA ASSURANCE CO LTD, REP. BY ITS DIVISIONAL MANAGER, KURNOOL.

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Courtto allow the appeal by setting aside the Decree and Judgment dt. 28-2-2012 made in MVOP No. 640 of 2007 on the file of hte First Additional District & Sessions Judge, Cum Chairman, Accident Claims Tribunal, Kurnool and pass

IA NO: 1 OF 2012(MACMAMP 4079 OF 2012

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 29 days that has occurred in filing the present appeal in the interest of justice and to pass

IA NO: 2 OF 2012(MACMAMP 4236 OF 2012

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 all further proceedings including the executin of the the Decree and Judgment dt. 28-2-2012 made in MVOP No. 640 of 2007 on the file of hte First Additional District & Sessions Judge, Cum Chairman, Accident Claims Tribunal, Kurnool and pass

Counsel for the Appellant:

1. ARAVALA RAMA RAO(SC FOR APSRTC KKAC)

Counsel for the Respondent(S):

1. P V V SATYANARAYANA
2. C V RAJEEVA REDDY
3. A JAYANTHI

The Court made the following:

THE HON'BLE SMT. JUSTICE SUNITHA GANDHAM

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 603 OF 2016

JUDGMENT:

Assailing the order and decree dated 28.02.2012 in M.V.O.P.No.640 of 2007 passed by the I Additional District & Sessions Judge-cum-Chairman, Accident Claims Tribunal, Kurnool, respondent No.1/APSRTC has preferred the instant appeal for awarding compensation of Rs.5,55,000/- for the untimely death of M.Mallikarjuna Reddy.

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 01.06.2007, while the deceased travelling in TATA Sumo bearing No.AP 21 V 6156 so as to advertise the Syngenta India Limited, Sunflower Seeds at Kodumur and when the TATA Sumo reached near Varkuru Village, at about 9.00 A.M, an APSRTC bus bearing No.AP 11 Z 2467 came in a rash and negligent manner and dashed against the TATA Sumo in which the deceased travelling and as a result of which, Mallikarjuna Reddy/deceased sustained severe multiple injuries and died on the spot. The deceased aged about 27 years, working as Field Assistant in the office of Syngenta India Limited, Seeds Company, Kurnool and was drawing salary of Rs.9,000/- P.M. The petitioners are the legal representatives and dependents of the deceased. Due to the sudden demise of the husband of petitioner No.1, all the petitioners lost financial support and love and affection. Respondent No.1 is APSRTC, respondent No.2 is owner of TATA Sumo bearing No.AP 21 V 6156 and respondent No.3 is insurer of TATA Sumo.

4. Respondent No.1 filed counter refuting the averments made in the petition, wherein, *inter alia* contended that the accident occurred due to the rash and negligent driving of driver of TATA Sumo bearing No.AP 21 V 6156, there was no negligence on the part of driver of APSRTC bus, petitioners claimed excessive compensation, and with other formal denials, prayed to dismiss the petition.

5. Having received summons, respondent No.2 remained ex-partie.

6. Respondent No.3 filed counter contending that the accident occurred only due to the rash and negligent driving of driver of APSRTC bus, there was no negligence on the part of driver of TATA Sumo and as such, they are not liable to pay compensation, and with other formal denials, prayed to dismiss the claim against respondent No.3.

7. Taking into consideration of the aforementioned pleadings, the learned Tribunal settled the following issues:

1) Whether the accident occurred due to composite negligence of the driver of the APSRTC bus bearing No.AP 11 Z 2467 and the driver of the TATA Sumo bearing No.AP 21 V 6156?

2) Whether the petitioners are entitled for any compensation?

3) To what relief?

8. During trial, petitioner No.1 herself examined as PW1 and the petitioners have got examined PW Nos.2 and 3, and filed Exs.A1 to A4 and X1 and X2 documents. As against the said evidence, respondent No.1 has not adduced either oral as well as documentary evidence. Respondent No.3 has got examined its administrative officer as RW.1, and filed Exs.B1 and B2 documents. At the culmination of trial, the learned tribunal dismissed the claim against respondent Nos.2 and 3 and awarded compensation of Rs.5,55,000/- fixing liability on respondent No.1. Feeling aggrieved by the said order and decree, respondent No.1 preferred the instant appeal urging the following grounds:

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 went wrong in coming to conclusion that the accident occurred due to rash and negligent driving of driver of APSRTC bus.

iii. The learned tribunal failed to see that the accident occurred due to rash and negligent driving of driver of TATA Sumo.

iv. The learned tribunal failed to appreciate evidence in proper perspective and came to wrong conclusion and also erroneously awarded 9% interest which is against the principles of law, and with other formal grounds, prayed to allow the appeal.

9. Heard both sides.

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

1) Whether the accident occurred due to rash and negligent driving of the driver of APSRTC bus bearing No.AP 11 Z 2467 or driver of TATA Sumo bearing No.AP 21 V 6156 or due to the contributory negligence of both the drivers?

2) Whether the petitioners are entitled for compensation? If so, to what amount and from which of the respondent?

3) Whether the order and decree passed by the learned tribunal are sustainable in law and facts?

4) To what relief?

11. Admittedly, the petitioners have not filed any appeal or cross objections against the findings in respect of quantum of compensation, however, 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.

12. Point No.1:

a). As seen from the record, there is absolutely no dispute in respect of the accident and to prove the manner and method of accident, petitioners relied upon the evidence of PW Nos.1 and 2. PW.1 is none other than the wife of the deceased and is not an eye witness to the accident and the only available evidence to prove the manner and method of accident is that of PW.2 who testified that on 01.06.2007 at 9.00 A.M, the driver of APSRTC bus bearing No.AP 11 Z 2467 drove the same in a rash and negligent manner and dashed against the TATA Sumo bearing No.AP 21 V 6156 and as a result of which, travellers of the TATA Sumo sustained injuries, the deceased Mallikarjuna Reddy also sustained multiple injuries and died on the spot and basing on the report of the defacto complainant, a case in Crime No.77 of 2007 is registered for the offences under Section 304A of IPC. Nothing useful material is elicited in the cross examination of PW.2. Respondent No.1 has not examined its driver and his non-examination is fatal to the case of respondent No.1.

(b) Further, as seen from Ex.A1/Certified copy of First Information Report and Ex.A2/Certified copy of charge sheet, crime is registered of the offence under Section 304A of IPC and after completion of investigation, police laid charge sheet alleging that the accident occurred only due to the rash and negligent driving of driver of APSRTC bus bearing No.AP 11 Z 2467. Having argued that the accident occurred due to the rash and negligent driving of driver of TATA Sumo, respondent No.2 failed to adduce either oral as well as documentary evidence. So, the evidence of PWs.1 and 2 coupled with Exs.A1 and A2 clinchingly proves that the accident occurred due to the rash and negligent driving of driver of APSRTC bus. As seen from Ex.A3/Post-mortem report, deceased Mallikarjuna Reddy sustained injuries in the accident and succumbed to the said injuries. Therefore, this Court is of the considered view that the accident occurred only due to the rash and negligent driving of driver of APSRTC bus bearing No.AP 11 Z 2467. Hence, this point is answered in the affirmative and against the respondent No.1.

13. Point No.2:

(a) As per the version of petitioners, deceased hale and healthy, aged about 27 years, working as Filed Assistant in Syngenta India Limited, Seeds Company, Kurnool, drawing salary of Rs.9,000/- per month and due to the sudden demise of the deceased, petitioners lost financial support, love and affection. As seen from Ex.A4/Ration card, date of birth of the deceased is 01.07.1980. There is no contra evidence to that effect. So, it can safely be concluded that the deceased aged about 27 years, as on the date of his death. Petitioners who are none other than wife, children and parents of the deceased are entitled for compensation.

(b) To prove income of the deceased, petitioners have got examined accountant of Syngenta India Limited, Seeds Company as PW.3 and it came in his evidence that he was authorized to produce documents *vide* Ex.X1/Authorization letter, the deceased working as Field Assistant in their company and was drawing salary of Rs.9,000/- per month *vide* Ex.X2 and nothing useful material is elicited to dislodge the evidence of PW3. The learned tribunal erred in not considering Ex.X2/Salary certificate which is proved through PW.3 and as such, this Court came to the conclusion that X2/Salary certificate shall be taken into consideration.

(c) This petition is filed by the wife, two children and parents of the deceased. So there are five petitioners. But, the learned tribunal had deducted half of the amount towards the personal expenses of the deceased, which is against to the principles of law and since the petitioners are five in number, 1/4th amount is to be deducted towards personal expenses of the deceased.

(d) 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***[1]***,*** 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 limitations on the powers of the appellate court to consider the entire case on facts and law".

(e) Further, in ***National Insurance Company Limited rep. By its Branch Manager v. Susheelamma and Others*** [2] , 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.

(f) And, in ***Surekha v. Santhosh***[3], having agreed with the stand of the claimants that just compensation amount ought to be awarded, High Court of

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[1] 2013 (11) SCC 517
[2] 2023 SCC Online AP 1725
[3] (2021) 16 SCC 467

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.

(g) While awarding compensation, the principles laid down by the Hon'ble Apex Court in ***Sarala Varma and Others Vs. Delhi Transport Corporation and another***[4] , ***National Insurance Company Ltd Vs. Pranay Sethi and others***[5] and ***Magma General Insurance Company Limited v. Nanu Ram alias Chuhru Ram and others***[6] shall be taken into consideration. Admittedly, accident in this case is occurred in the year 2007 and on 28.02.2012, the learned tribunal passed the impugned award. Respondent No.2 preferred appeal with delay and accordingly, this appeal is registered in the year 2016. Insofar as applicability of the subsequent settled principles of law to the facts of the case at hand, it is apposite to mention that in ***Government of India and another v. Sri Devaraj Medical College***[7], it is held that if a decision of the Hon'ble Apex Court does not expressly provides its application to be prospective, then it is a settled law that all the decisions are retrospective in application.

(h) Applying the aforementioned principles, this court assessed the compensation as follows:

[4] (2009) ACJ 1298
[5] (2017) 6 SCC 680
[6] (2018) 18 SCC 130
[7] 2026 Livelaw SC 766

Sl. No.	Heads		Calculation
1.	Annual income(Rs.9000x12)	Rs.	1,08,000/-
2.	Deduction towards personal expenses (1,08,000x1/4)	Rs.	27,000/-
3.	Total income (1,08,000-27000)	Rs.	81,000/-
4.	Future prospects (40% of 81,000)	Rs.	32,400/-
5.	Total loss of dependency (81,000+32,400)x17	Rs.	19,27,800/-
6.	Loss of consortium (40,000x5) (spousal+filial+parental)	Rs.	2,00,000/-
7.	Funeral expenses	Rs.	15,000/-
8.	Transportation expenses	Rs.	10,000/-
9.	Loss of estate	Rs.	15,000/-
	Total	Rs.	**21,67,800/-**

(i) In the given facts and circumstances of the case, the petitioners are entitled for Rs.21,67,800/- (Twenty one lakhs sixty seven thousand eight hundred rupees only) and in this court's well considered view, the compensation awarded is just, adequate and reasonable, as the deceased had left his dependents.

(j) So far as liability of the respondents is considered, a finding is already given in point No.1 that the accident occurred only due to the rash and negligent driving of driver of APSRTC bus and as such, respondent No.1 is vicariously liable to pay compensation. The learned tribunal rightly exonerated the liability of respondent Nos.2 and 3 as the accident occurred due to the rash and negligent driving of driver of respondent No.1. Hence, this point is answered holding that respondent No.1 is liable to pay compensation.

14**. 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 just and fair compensation and as such, the same is liable to be modified. Hence, this point is answered accordingly.

15. **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.5,55,000/- (Rupees Five Lakh Fifty Five Thousand Only) to Rs.21,67,800/- (Twenty one lakhs sixty seven thousand eight hundred rupees only)** and awarded the same 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 No.1.

(ii) Out of the said compensation amount, an amount of Rs.9,67,800/- (Nine lakhs sixty seven thousand eight hundred rupees only) is awarded to the petitioner No.1. Rs.4,00,000/- (Four lakhs rupees only) each is awarded to the petitioner Nos.2 & 3 and Rs.2,00,000/- (Two lakhs rupees only) each is awarded to the petitioners Nos.4 & 5. Apportionment is ordered accordingly.

(iii) The respondent No.1 shall deposit the compensation amount, as aforesaid, with interest, excluding the amount, if any, already deposited, within (02) two months, before the learned Tribunal.

(iv) On such deposit, petitioner Nos.1, 4 & 5 are permitted to withdraw the compensation as awarded supra along with accrued interest thereon, excluding the amount, if any, already paid.

(v) The award amount of petitioner Nos.2 & 3 shall be kept in two separate fixed deposits, 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

Dt:05.10.2026

SCS/Vns

Whether the order is :

✓

Speaking Yes/No / Reasoned Yes/No

✓

Reportable Yes/No / Non-Reportable Yes/No