APHC010184422017

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: 1421/2017

Between:

1. SMT N MUNEESWARI, CHITTOOR DIST & 2 OTHERS, W/O. LATE JANARDHAN, AGED 36 YEARS, OCC. HOUSE WIFE,
2. N. TEJA @ TEJASWINI ,, D/O. LATE JANARDHAN, AGED 19 YEARS, OCC. STUDENT,
3. N. ASHOK,, S/O. LATE JANARDHAN, AGED 17 YEARS, OCC. HOUSE WIFE, (PETITIONER NO.3 IS REPRESENTED BY THEIR MOTHER N. MUNESWARI AS THEIR GUARDIAN) ALL ARE HINDUS, DEPENDENTS, RESIDING ATGANDHIPURAM @ GANDHAPUDIVARIPALLE VILLAGE, PENUMUR POST AND MANDAL, CHITTOOR DISTRICT

...APPELLANT(S)

AND

1. A SULEMAN CHITTOOR DIST 2 OTHERS, S/O. J. ANWAR BASHA, AGED 31 YEARS, MUSLIM, R/O. D.NO. 15- 2539/.2 JAINAGAR COLONY, CHITTOOR TOWN & DISTRICT.
2. M/S SHRIRAM GENERAL INSURANCE CO LTD, REPRESENTED BY ITS BRANCH MANAGER, HAVING BRANCH OFFICE AT NO. 4-62, AVILALA OTERU, VEDANTHAPURAM, TIRUPATHI TOWN, CHITTOOR DISTRICT.
3. K BHASKAR REDDY, S/O. LATE K. VENKATA REDDY, AGED 50 YEARS, OCC. DRIVER. R/O. PALYAM KOTHUR, PENUMUE MANDAL, CHITTOOR DISTRICT.

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Courtagainst the Award and decree passed in M.V.O.P.No. 191 of 2012, Dt.07-11-2016 on the file of the Motor Accidents Claims Tribunal - Cum - VIII Additional District Judge, at Chittoor

IA NO: 1 OF 2017(MACMAMP 2643 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 condone the delay of 109 days in filing the present appeal, in the interest of justice and pass

IA NO: 2 OF 2017(MACMAMP 2644 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 declare the petitioner as major by discharge petitioner next friend/guardian i.e. mother of petitioner i.e. respondent No.4 by permitted the petitioner to proceed with the above appeal in petitioner own name in the interest of justice and pass

Counsel for the Appellant(S):

1. D SESHASAYANA REDDY

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: 1421 OF 2017

JUDGMENT:

Assailing the order and decree dated 07.11.2016 in M.V.O.P.No.191 of 2012 passed by the Chairman, Motor Vehicle Accident Claims Tribunal-cum-VIII Additional District Judge, Chittoor, petitioners has preferred the instant appeal as the learned Tribunal awarded compensation of Rs.7,24,000/- for the untimely death of N.Janardhan, in a road traffic accident.

2. **The case of the petitioner is thus**:

(a) On 19.10.2011 at about 7.45 p.m., after completion of his work, while deceased returning to his village on his motorcycle bearing No. AP-03-AQ-9096 and when he reached near Chervaniganipalli village, the driver of the TATA ACE Luggage Auto bearing No. AP-03-W-3052 drove the same in a rash and negligent manner and dashed the motorcycle of the deceased and as a result of which, Sri N. Janardhan died on the spot.

(b) Basing on the report of defacto-Complainant, a case in Cr.No.71 of 2011 was registered of the offence under Sections 304-A of Indian Penal Code. As on the date of accident, deceased working as Mason and was earning Rs.9,000/- per month. Due to the sudden demise of deceased, all the petitioners, who are dependants and legal representatives of deceased lost their financial support as well as love and affection. Respondent No.1 is owner, respondent No.2 is insurer and respondent No.3 is driver of the offending vehicle and as such, they are jointly and severally liable to pay the compensation.

3. Having received notices, Respondent Nos.1 and 3 remained *ex parte*.

4. Respondent No.2 filed counter refuting the averments made in the petition, wherein, inter alia contended that the petitioners claimed excessive compensation, driver of the offending vehicle has no valid driving license, respondent No.1 violated the terms and conditions of the policy and there was no negligence on the part of respondent no.1, 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 rash and negligent driving of the driver of the TATA ACE luggage auto bearing No.AP 03 W 3052 or due to rash and negligent riding of rider of the motor cycle bearing No.AP 03 AQ 9096?
>
> 2) Whether the petitioners are entitled to any compensation, if so, to what amount and from whom?
>
> 3) To what relief?

6. During trial, petitioner No.1 examined herself as PW.1 and petitioners have got examined independent witness as PW.2, and filed Exs.A1 to A8 documents. As against the said evidence, Respondent No.2 has got examined its employee as RW.1 and filed Ex.B1/Attested copy of Insurance policy. Upon consideration of the evidence and material on record, the learned Tribunal allowed the claim petition and awarded compensation of Rs.7,24,000/- with interest at 7.5% per annum from the date of petition till the date of deposit or realization.

7. Being aggrieved by the said Order and decree, the claimants preferred the instant appeal, urging the principal grounds that:

(i) The impugned order and decree of the learned Tribunal is illegal and contrary to law and facts, weight of evidence and probabilities of the case.

(ii) The learned Tribunal failed to appreciate evidence in proper perspective.

(iii) The learned Tribunal ought to have considered Ex.A6/Salary certificate coupled with the evidence of independent witness, and with other formal grounds, prayed to allow the appeal.

8. Heard both sides. Perused the material available on record including the impugned Order dated 07.11.2016.

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

(1) Whether the accident dated 19.10.2011 occurred due to the rash and negligent driving of the respondent No.3?

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

(3) Whether the Order and decree dated 07.11.2016 passed in M.V.O.P.No.191 of 2012 by the Chairman, Motor Accident Claims Tribunal-cum-VIII Additional District Judge, at Chittoor, are sustainable in facts and law?

(4) To what relief?

10. **Point No.1:**

(a) Admittedly, feeling aggrieved by the finding given by the learned tribunal in respect of the accident, respondent No.2 has not preferred any appeal, 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.

(b) 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. PW.1 who is wife of the deceased 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 and he testified that on 19.10.2011, he has witnessed

the accident and the same is occurred due to the rash and negligent of driving of respondent No.3, and in his cross examination, nothing useful material is elicited in favour of respondent No.2.

(c) Further, Ex.A1/First information report reveals that a case in Cr.No.71 of 2011 was registered of the offence punishable under Section 304-A of I.P.C, against the respondent No.3 and after completion of investigation, police laid Ex.A2/Charge sheet alleging that the accident occurred only due to the rash and negligent driving of the respondent No.1. To refute the said oral and documentary evidence adduced by the petitioners, respondents have not adduced any rebuttal evidence. Having stated that the accident not occurred due to rash and negligent driving of the respondent No.2, RW.1/Legal officer of respondent No.2 failed to show probabilities in their favour.

(d) Having received notices, Respondent Nos.1 and 3, remained exparte. Respondent No.3 who is the best person to speak about the accident is also not examined and his non-examination is fatal to the case of the respondents. So, the evidence of PW.1 and PW.2 coupled with the Ex.A1 and Ex.A2 clinchingly proves that the accident occurred due to the rash and negligent driving of Respondent No.3. Ex.A3/Postmortem Report and Ex.A7/Inquest Report reveals that the deceased sustained injuries in the accident and succumbed to the said injuries. As per Ex.A4/Motor Vehicle Inspector Report, the accident is 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 Respondent No.3 and Sri N. Janardhan sustained injuries in the said accident 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 version of the petitioners, the deceased hale and healthy, aged about 35 years, working as Mason, was earning Rs.9,000/- per month and the petitioners, who are wife and children of deceased lost financial support, love

and affection. As seen from Ex.A2/Charge sheet, A3/Postmortem report and Ex.A7/Inquest report, age of the deceased is mentioned as 35 years. There is no contra evidence to that effect. So, it can safely be concluded that the age of the deceased was 35 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 income of the deceased is concerned, to substantiate the version of the petitioners, they filed Ex.A6/Salary certificate which reveals that the deceased working as Mason and was drawing salary of Rs.9,000/- per month. Admittedly, they have not examined any independent witness or the person who has issued Ex.A6, to prove the same. Since the petitioners have not proved Ex.A6, the learned tribunal has fixed notional income of the deceased at Rs.3,000/- per month. But, as seen from Ex.A8/Identity card, the deceased working as Mason. So, it can safely be concluded that the deceased working as Mason, as on the date of accident. Added to it, respondents have not elicited any material in the cross examination of PW1 in respect of Ex.A8. There is no reason to disbelieve the evidence of PW1 coupled with averments in Ex.A2/Charge sheet and Ex.A8/Identity card. In the given facts and circumstances coupled with the fact that the accident occurred in the year 2011 and on a reasonable hypothesis, this court is of the considered view that monthly earnings of the deceased have to be fixed at Rs.200/- per day i.e. Rs.6,000/- per month.

(c) 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***

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

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.6000 X 12)	Rs.	72,000/-
2.	Deduction towards personal expenses (72,000x1/3)	Rs.	24,000/-
3.	Total income (72,000-24,000)	Rs.	48,000/-
4.	Future prospects (40% of 48,000)	Rs.	19,200/-
5.	Total loss of dependency (48,000+19,200)x16	Rs.	10,75,200/-
6.	Loss of consortium (40,000x3)	Rs.	1,20,000/-
7.	Funeral expenses	Rs.	15,000/-
8.	Transportation expenses	Rs.	10,000/-
9.	Loss of estate	Rs.	15,000/-
	Total	Rs.	**12,35,200/-**

(d). In the given facts and circumstances of the case, petitioners are entitled for **Rs.12,35,200/- (Rupees Twelve Lakh Thirty Five Thousand and Two hundred Only)** and in this courts well considered view, the compensation awarded is just, adequate and reasonable, as the deceased left his dependents.

(e). So far as liability of the respondent Nos.1 to 3 is concerned, a finding is already recorded in point No.1 holding that respondent No.3/driver of TATA ACE auto bearing No.AP 03 W 3052 was solely responsible for the accident, and as such, respondent No.1/owner of the said auto bearing No.AP 03 W 3052 is liable for the acts committed by respondent No.3. Respondent No.2 did not dispute the validity period of the policy *vide* Ex.B1. 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 to 3 are jointly and severally

[3] (2018) 18 SCC 130

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:

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.**12,35,200/- (Twelve Lakhs thirty five thousand two 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 to 3 jointly and severally.

(ii) Out of the said compensation amount, **Rs.6,35,200/- (Six lakhs thirty five thousand two hundred rupees only)** is awarded to the petitioner No.1 and Rs.3,00,000/- each is awarded to the petitioner Nos.2 & 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, petitioner Nos.1 & 2 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 No.3 shall be kept in fixed deposit, in any nationalized bank, till he attains 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 05.10.2026
SSA/Vns

Whether the order is :

✓
Speaking Yes/No / Reasoned Yes/No

✓
Reportable Yes/No / Non-Reportable Yes/No