APHC010187102017

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: 262/2017

Between:

1. APSRTC, REP. BY THE CHAIRMAN-CUM-MANAGING DIRECTOR MUSHEERABAD, HYDERABAD

...APPELLANT

AND

1. BONENI YESWANTH ANOTHER, S/O VENKATESWARLU AGED 6 YEARS, BEING MINOR REPRESENTED BY NATURAL GUARDIAN AND MOTHER BONENI RAVANAMMA (A) RAMANAMMA WIFE OF VENKATESWARLU, R/O HASANAPURAM VILLAGE KOMAROLE MANDAL, PRAKASAM DISTRICT.
2. GOLLA LAKSHMI NARAYANA, S/O BABU RAO AGED 33 YEARS, R/O RAVINUTHALA VILLAGE, KORISAPADU MANDAL, PRAKASAM DIST CONTRACT DRIVER OF RTC BUS AP 28Z 2797 THE 2ND RESPONDENT IS NOT NECESSARY PARTY IN THIS APPEAL)

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Court to allow the MACMA by setting aside the Order and Decree dt.14.03.2016 passed in M.V.O.P No.43 of 2013 on the file of the court of the Motor Accident Claims Tribunal-cum-VI Additional District & Sessions Judge, Markapur, Prakasam District

IA NO: 1 OF 2016(MACMAMP 3892 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

IA NO: 2 OF 2016(MACMAMP 4040 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

IA NO: 3 OF 2016(MACMAMP 5208 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 permit the 1st respondent to withdraw the amount as directed by this Hon'ble Court in MACMAMP.No.4040/2016 in MACMASR.No.29891/2016, dt.27.8.2016 and pass

Counsel for the Appellant:

1. P VENKATA RAO SC For APSRTC

Counsel for the Respondent(S):

1. PULIPATI RADHIKA

The Court made the following:

THE HON'BLE SMT. JUSTICE SUNITHA GANDHAM

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 262/2017

JUDGMENT:

Assailing the Judgment and decree dated 14.03.2016 in M.V.O.P.No.43 of 2013 passed by the Chairman, Motor Vehicle Accident Claims Tribunal-cum-VI Additional District & Sessions Judge, Markapur, Prakasam District, respondent No.2/A.P.S.R.T.C has preferred the instant appeal for compensation of Rs.2,00,000/- for the injuries sustained by Sri Boneni Yeswanth in a road traffic accident dated 27.08.2012.

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

(a) The petitioner was hale and healthy and was aged about 6 years, as on date of accident was represented by his mother Smt. B. Ramanamma. On 27.08.2012 at about 5.30P.M., while the petitioner was crossing the road, driver of A.P.S.R.T.C bus bearing No. AP-28-Z-2797 drove the same in a rash and negligent manner and dashed against the petitioner and as a result of which petitioner fell down and sustained injuries. Immediately after the accident injured shifted to Dr. Brahmareddy hospital, Giddalur and after first aid, he was shifted to Surya hospital, Kurnool for better treatment. The petitioner sustained fracture injuries, underwent surgeries, took treatment, incurred expenses and lost amenities. He also sustained permanent disability and spent an amount of Rs.1,50,000/- towards treatment and medicines.

(b) A case in Cr.No.203 of 2012 was registered of the offence under Sections 337 and 338 of Indian Penal Code. Respondent No.1 is the driver of A.P.S.R.T.C bus bearing No. AP-28-Z-2797 and respondent No.2 is A.P.S.R.T.C and as such the respondents are jointly and severally liable to pay compensation.

3. Having received summons, Respondent No.1 remained ex-parte. Respondent No.2 filed written statement denying the averments of the petitioner, wherein, inter alia contended that the respondent No.1 driver of the bus, having observed the boy who was trying to cross the road suddenly, applied breaks so as to avert the accident and since the boy suddenly tried to cross the road, he touched the bus, fell down and sustained injuries, there was no negligence on the part of the respondent No.1, petitioners claimed excessive compensation and interest, and other formal denials, prayed to dismiss the petition.

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

> 1) Whether the injuries sustained by the petitioner, is the resultant of accident due to rash and negligent driving of driver of crime vehicle A.P.S.R.T.C bus bearing No.AP-28-Z-2797?
>
> 2) Whether the petitioner is entitled for compensation. If so to what amount and from which of the respondents?
>
> 3) To what relief?

5. During trial, mother of the petitioner examined herself as PW.1 and petitioner has got examined PW.2 and PW.3, and filed Exs.A1 to A15 and Exs.X1 documents. As against the said evidence, respondent No.2 has got examined its driver as R.W.1 and no documents are filed.

6. Heard Sri P Venkata Rao, learned Standing Counsel for A.P.S.R.T.C and Smt. Pulipati Radhika, learned counsel for respondent/claimant.

7. On hearing both sides and upon perusing the material available on record, and including the impugned order dated 14.03.2016, the points that would arise for consideration are as follows:

> *(1) Whether Sri Boneni Yeswanth sustained injuries in the accident dated 27.08.2012 due to rash and negligent driving of Respondent No.1/ driver of A.P.S.R.T.C bus bearing No.AP-28-Z-2797.*

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

(3) Whether the Judgment and decree passed by learned Tribunal are sustainable in facts and law?

(4) To what relief?

8. **Point No.1:**

(a) Admittedly, petitioner had not filed any appeal or X-objections challenging the quantum of compensation by the learned Tribunal, however, being the first appellate court, this court has to re-examine and re-appreciate the evidence available on record to answer the points as well as to grant fair and just compensation.

(b) Now, it is necessary to analyze the evidence available on record to answer the points. During trial, mother of petitioner filed examination-in-chief affidavit in lieu of chief examination by reiterating the averments mentioned in the petition and relied upon the evidence of PW.2/ eye-witness and PW.3/doctor coupled with Ex.A1/attested copy of FIR in Cr.No.203/2012 of Giddalur. PW.2, who is an eye witness testified that on 27.08.2012 at about 5.30PM, while the petitioner namely Yeswanth was crossing the road, driver of A.P.S.R.T.C bus drove the bus in a rash and negligent manner, without blowing horn and dashed against the petitioner and as a result, petitioner fell down, sustained multiple injuries and immediately after the accident, he was shifted to a private nursing home of Dr. Brahmareddy hospital, Giddalur and he categorically admitted that the accident occurred due to rash and negligent driving of driver of A.P.S.R.T.C bus. Nothing useful material is elicited in the cross examination of PW.2.

(c) Learned counsel for the respondent No.2 argued that there was no negligence on the part of driver A.P.S.R.T.C bus, he took all possible measures to avert the accident and since the petitioner suddenly crossed the

road, he touched the bus, fell down and sustained injuries. In the cross examination, RW.1 had categorically admitted that the crime is registered against him, he has been attending the Criminal Court, he has not challenged the investigation done by the Investigating Officer. Absolutely there is no material to substantiate the version of Respondent No.2. They failed to adduce rebuttal evidence.

(d) Further, Ex.A1/First information Report clearly reveals that a case in crime No.203 of 2012 is registered of the offences punishable under Section 338 Indian Penal Code, against respondent No.1 and after completion of investigation, Police found fault with the respondent No.1 and laid Ex.A3/charge sheet alleging that the accident occurred due to rash and negligent driving of respondent No.1. So, the evidence of PW.2 coupled with Ex.A1 and A3 clinchingly proves that the accident occurred due to the rash and negligent driving of Respondent No.1. There is no rebuttal evidence and in the absence of rebuttal evidence, contention of learned counsel for respondent No.2 cannot be taken into consideration. As seen from Ex.A2, petitioner sustained injuries in the accident. Therefore, this point is answered holding that the accident occurred due to rash and negligent driving of respondent No.1

9. **Point No.2:**

(a) It came in the evidence of PW.1/mother of the petitioner that as on the date of accident the boy was aged about 6 years, very active , studious and due to accident dated 27.08.2012, petitioner sustained fracture injuries, immediately after the accident the injured was shifted to Dr.Brahmareddy hospital, Giddalur and after first aid, shifted to Surya hospital, Kurnool, she has incurred an amount of Rs.1,50,000/- towards treatment and medicines, petitioner underwent surgeries, took treatment as inpatient, sustained disability and lost amenities.

(b) To prove injuries and treatment of the petitioner, petitioner has got examined doctor as PW.3 and he testified that on 27.08.2012, he has examined the minor boy Sri Boneni Yeswanth and found the injury of depressed fracture of the left parietal bone and an undisplaced fracture of the distal end of the left femur. It is his further evidence that the injured was managed with IV antibiotics, analgises fracture femur was treated with POP and was discharged on 05.09.2012 with an advice to take bed rest and to follow up action. It is his further evidence that both the injuries are grievous in nature and the PW.3 admitted Ex.A2/Wound certificate, Ex.A4 to A12/medical bills, lab and scan reports Ex.A15/X-ray films (5). PW.3 further stated that on the date of giving evidence also, he has examined the petitioner and then, the injured complained of pain in his left lower limb, while sitting and for which, he advised to undergo another surgery which costs around Rs.70,000/- to 80,000/-. Further, the petitioner sustained disability at 15% to 25%. PW.3 filed Ex.X1/Case sheet and in the cross examination, expect posing suggestions, nothing useful material is elicited.

(c) To substantiate the version of petitioner that the injured sustained disability, they have not filed any disability certificate. So, the evidence of PWs.1 and 3 coupled with Ex.A2, A4 to A15 and X1, on 27.08.2012, petitioner/Boneni Yeswanth who was aged about 6 years, sustained two fracture injuries, admitted in two hospitals, took treatment as inpatient for nearly ten (10) days, underwent surgeries, incurred an amount of Rs.74,748/-, he has to undergo one more surgery which costs about Rs.70,000/- to 80,000/-.

(d) Learned counsel for the petitioner submitted that though they have not filed any appeal or X-objections, this court can award just and fair compensation. In this regard, in ***National Insurance Company Limited rep. By its Branch Manager v. Susheelamma and Others***[1]***,*** division bench of

[1]2023 SCC Online AP 1725

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.

(e) And, in ***Surekha v. Santhosh***[2], having agreed with the stand of the claimants that just compensation amount ought to be awarded, High Court of 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.

(f) Having considered the facts and circumstances, this court assessed the compensation as follows:

Sl. No.	**Heads**		**Calculation**
1.	Pain and suffering	Rs.	1,50,000/-
2.	Medical bills	Rs.	34,118/-
3.	Transportation	Rs.	20,000/-
4.	Loss of amenities	Rs.	20,000/-
5.	Future surgery	Rs.	50,000/-
	Total	Rs.	**2,74,118/-**

[2] (2021) 16 SCC 467

(g) In this court's well considered view, the compensation awarded is just, adequate and reasonable.

(h) Insofar as liability of the respondents is concerned, a finding is already recorded in point No.1 that the accident occurred due to the rash and negligent driving of respondent No.1. So, the respondent No.2 is vicariously liable to indemnify the respondent No.1. Hence, this point is answered holding that the respondent Nos.1 and 2 are jointly and severally liable to pay compensation.

10**. Point No.3:**

Upon reappraisal of the evidence on record, and for the foregoing reasons, this court came to the conclusion that order and decree of the learned Tribunal in respect of findings are sustainable in facts and law, however, for the reasons mentioned by this Court, compensation amount is enhanced to Rs.2,74,118/- to meet ends of justice. Hence, this point is answered accordingly.

11. **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 compensation **from Rs.2,00,000/- (Rupees Two Lakhs only) to Rs.2,74,118/- (Rupees Two Lakhs Seventy Four Thousand one hundred and Eighteen only)** together with same rate of interest as awarded by the Tribunal, from the date of petition till the date of payment of realization, subject to payment of additional court fee on Rs.74,118/- (Rupees Seventy Four Thousand Four hundred eighteen only) by the petitioner/ claimant before the Registry within thirty (30) days from today.

(ii) The respondent shall deposit the compensation amount, as aforesaid, with interest, excluding the amount, if any, already deposited, within (30) thirty days, before the learned Tribunal.

(iii) On such deposit, the petitioner is permitted to withdraw the compensation as awarded supra with accrued interest thereon, excluding the amount already paid.

(iv) There shall be no order as to costs.

As a sequel thereto, pending miscellaneous petitions, if any, shall stand closed.

SUNITHA GANDHAM, J

Dated 12.10.2026
CJP/ knl