APHC010245832018

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: 951/2018

Between:

1. APSRTC, REP. BY ITS DEPOT MANAGER GAJUWAKA DEPOT, VISAKHAPATNAM DISTRICT
2. THE APSRTC, REP.BY VICE CHAIRMAN AND MANAGING DIRECTOR MUSHEERABAD CROSS ROADS, HYDERABAD. NOW AT VIJAYAWADA

...APPELLANT(S)

AND

1. DABBIRU SARASWATHI, W/O LATE KAMESWARA RAO AGED ABOUT 72 YEARS, RESIDING AT 2ND STREET. AGRAHARAM, KASIMKOTA VILLAGE, VISAKHAPATNAM DISTRICT
2. V VEERABHADRA RAO, S/O LATE GOVINDARAJULU AGED ABOUT 53 YEARS, R/O 2ND LANE. SRAMIKA NAGAR CHINA GANTYADA, VISAKHAPATNAM DISTRICT (DRIVER OF RTC BUS)

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Court to allow the appeal by sexing aside the judgment and decree passed by Chairman Motor Accidents Claims Tribunal cum VII Additional District Judge (Fast Track Court), Visakhapatnam passed in M.V.O.P No. 1083 OF 2016 dated. 21.11.2017 and pass such further order orders as this Hon'ble court may deems fit and proper in the circumstances of the case.

IA NO: 1 OF 2018

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 grant stay of execution of decree passed by chairman Motor Accidents Claims Tribunal cum VII Additional district Judge, (FTC), Visakhapatnam passed in MVOP No.1083 of 2016 dated 21.11.2017 pending disposal of the above MACMA No.951 of 2018 and pass

Counsel for the Appellant(S):

1. K SRINIVASA PRASAD SC For APSRTC

Counsel for the Respondent(S):

1. S.N.K.MAHANTHI

The Court made the following:

THE HON'BLE SMT. JUSTICE SUNITHA GANDHAM

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 951 OF 2018

JUDGMENT:

This Motor Accident Civil Miscellaneous Appeal is filed against the Judgment and decree dated 21.11.2017 in M.V.O.P.No.1083 of 2016 passed by the Chairman, Motor Accident Claims Tribunal-cum-VII Additional District Judge (Fast Tract Court), Visakhapatnam, Respondent Nos.2 and 3 preferred the instant appeal as the learned Tribunal awarded compensation of Rs.2,87,000/- for the injuries sustained by the petitioner in a road traffic accident.

2. The parties are being referred to as 'petitioner' and 'respondents' as arrayed in the petition before the tribunal, for the sake of convenience and clarity.

3. Case of the petitioner is thus:

On 10.06.2016, while the petitioner along with her son boarded in an A.P.S.R.T.C Bus bearing No.AP-11-Z-6381 and when the bus reached near Pudimadaka bypass road junction, Ankapalli at 5.45 p.m., the driver stopped the bus and while the petitioner was getting down the bus, without observing the same, driver of the A.P.S.R.T.C bus drove the bus in a rash and negligent manner and as a result of which, petitioner/Sarawathi fell down and sustained multiple injuries. Immediately after the accident, she was shifted to Usha Prime Hospital, Anakapalli for treatment. Basing on the report, a case in crime No.21 of 2016 is registered of the offence under Section 338 of Indian Penal Code (hereinafter referred to as 'the Code') against Respondent No.1. Petitioner was aged about 71 years and doing Tailoring works and was earning Rs.6,000/- per month. Despite treatment, she could not recover, sustained permanent disability and lost income. Respondent No.1 is the driver

of Respondent Nos.2 and 3 and as such, Respondent Nos.1 to 3 are jointly and severally liable to pay compensation.

4. Respondent No.2 filed counter refuting the averments made in the petition, wherein, *inter alia* contended that the accident occurred due to the negligence of the petitioner and she slipped from moving bus, the driver of the bus is not responsible for the accident and as such, respondents are not liable to pay compensation, 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 on 10.06.2016 at about 17-45 hours at Pudimadaka bypass road, Anakapalli, Visakhapatnam District due to the rash and negligent driving of the driver of A.P.S.R.T.C Bus bearing No. AP-11-Z-6381 causing injuries to DabbiruSaraswathi?
>
> 2) Whether the petitioner is entitled to receive compensation, if so to what amount and from whom?
>
> 3) To what relief?

6. During trial, petitioner herself examined as PW.1 and she has got examined PW.2, and filed Exs.A1 to A8 documents. As against the said evidence, respondent No.1 himself examined as R.W.1 and no documents are filed. At the culmination of trial, learned Tribunal allowed the petition granting compensation of Rs.2,87,000/- with interest at 6% per annum. Feeling aggrieved by the said order and decree dated 21.11.2017, respondent Nos.2 and 3 preferred the instant appeal urging the following grounds:

i) The Judgment and decree dated 21.11.2017 in M.V.O.P.No.1083 of 2016 passed by the Chairman, Motor Accident Claims Tribunal-cum-VII Additional District Judge (Fast Tract Court), Visakhapatnam is contrary to law.

ii) The learned Tribunal erred in awarding compensation of Rs.2,87,000/-.

iii) The learned Tribunal ought to have appreciated the fact that Claimant failed to establish rash and negligent driving of the driver of bus bearing No.AP-11-Z-6381.

iv) The learned tribunal erred in taking the income of 1st respondent as Rs.4,500/- without any valid proof and also erred in taking the age of the 1st respondent as 70 years without any valid proof.

v) The learned Tribunal erred in considering the multiplier '5' while awarding compensation for injuries sustained by the 1st respondent and also erred in awarding compensation of Rs.75,000/- towards medical expenses and transport charges and also not considering the evidence of driver of the RTC bus and also erred in awarding interest @ 6%, and with other grounds, prayed to allow the appeal.

7. Heard Ms.P.Sundari, learned counsel representing Sri K.Srinivas Prasad, learned Standing Counsel for the Appellants and Smt O.Vara Lakshmi, learned counsel for the Respondents/claimants.

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

1. *Whether the petitioner sustained injuries in the accident dated 10.06.2016 occurred due to the rash and negligent driving of A.P.S.R.T.C Bus bearing No.AP-11-Z-6381?*
2. *Whether the petitioner is entitled for compensation? If so, to what amount?*
3. *Whether the Judgment and decree dated 21.11.2017 passed by the learned Tribunal are sustainable in facts and law?*
4. *To what relief?*

9. Admittedly, petitioner has not preferred any appeal challenging the findings of the learned Tribunal, 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.

10. Point No.1:

(a) As seen from the record, there is no dispute regarding the factum of accident and to prove the contentions, during trial, petitioner examined herself as PW.1, filed examination-in-chief affidavit in lieu of her chief examination reiterating the averments made in the petition and it came in her evidence that on 10.06.2016, she was boarded A.P.S.R.T.C Bus bearing No.AP-11-Z-6381 along with her son and at about 5.45 P.M, the bus stopped at Pudimadaka bypass road junction, Anakapalli, her son got down the bus and while she was getting down the bus, without observing the same, respondent No.1 drove the bus in a rash and negligent manner and as a result, she fell down and sustained injuries and immediately after the accident, she was shifted to Usha Prime Hospital, Anakapalli for treatment. Further, the accident occurred due to the rash and negligent driving of respondent No.1, a case in Cr.No.21 of 2016 is registered of the offence under Section 338 of Indian Penal Code against the driver. Nothing useful material is elicited in the cross examination of PW.1.

(b) Further, as seen from Ex.A1/First information report, a case in Crime No.21 of 2016 is registered of the offence stated *supra* against the respondent No.1 and after completion of investigation, police found fault with the driver of the bus and laid Ex.A4/Charge sheet alleging that the accident occurred due to his rash and negligent driving. Ex.A2/Attested copy of wound certificate reveals that the petitioner sustained multiple injuries in the road traffic accident. There is no contra evidence to that affect. Respondent No.1 who is best person to speak about the accident is not examined and his non examination is fatal to the case of respondents. So, Exs.A1, A2 and A4 support the evidence of PW.1. As per the material brought on to the record,

this court came to conclusion that the accident occurred due to the rash and negligent driving of driver of R.T.C Bus bearing No.AP-11-Z-6381 by its driver and the petitioner sustained injuries in the said accident. Hence, this point is accordingly answered in favour of the petitioner.

11. Point No.2:

(a) As per the version of the petitioner, she was hale and healthy, was aged about 70 years, was doing Tailoring works and was earning Rs.6,000/- per month, on 10.06.2016, she sustained injuries in the accident and immediately after commission of accident, she was shifted to Usha Prime Hospital Anakapalli, took treatment as in patient, suffered loss of income and disability, and filed Ex.A2/wound certificate, Exs.A5 to A8/ Discharge Summary, medical bills and disability certificate. As seen from Ex.A.4/Charge sheet and EX.A.2, petitioner was aged about 71 years, as on the date of accident. She has not adduced any supportive evidence showing her income and the given facts and circumstances, the learned Tribunal has rightly the taken notional income of the petitioner at Rs.4,500/- per month.

(b) To prove her injuries and treatment, petitioner has got examined doctor as PW.2 and he testified that on 10.06.2016 at 5.30 pm, the petitioner was admitted in their hospital with the crush injury to her right leg, they found that she has absence of vascularity (blood vessels were cut totally) and after improving her condition, amputation below the knee was done by him, injury of the petitioner is not yet completely healed and on 16.06.2016, petitioner was discharged. Further, he had issued EX.A.8/Disability certificate, petitioner sustained 60% disability to whole body and 70% disability to right lower limb, it affects the profession of Tailor, she has to depend on others for her day to day necessities like walking etc, she can use prosthetic limb and it may costs about Rs.25000/- to Rs.3,00,000/-. PW.2 admitted Exs.A5 to A8/ Discharge Summary, medical bills and disability certificate. Having considered the injuries and treatment taken by the petitioner coupled with medical record, the

learned Tribunal had rightly considered the functional disability at 60% and the same can be accepted.

(c) So, as per the evidence of PWs.1 and 2 coupled with Exs.A1 to A8, petitioner sustained multiple injuries, took treatment, underwent surgeries, below the knee amputation is done, incurred Rs.74,647/- (Rs.57,100/- and Rs.17,547/-) towards treatment, lost income during the period of treatment, suffered functional disability at 60%, has to incur Rs.25,000/- to Rs.3,00,000/- towards artificial limb and the details of compensation under each head are as follows:

I.PECUNIARY DAMAGES:

i) **Loss of earnings due to disability and future prospects:**

(a) Having considered the nature of job, age, education and other allied aspects, this court assessed the functional disability of the petitioner at 60%. In ***Sarla Verma v. Delhi Transport Corporation***[1], Hon'ble Apex Court held thus:

> "It is necessary to reiterate that the multiplier method is logically sound and legally well established. There are some cases which have proceeded to determine the compensation on the basis of aggregating the entire future earnings for over the period the life expectancy was lost, deducted a percentage therefrom towards uncertainties of future life and award the resulting sum as compensation. This is clearly unscientific. For instance, if the deceased was, say 25 years of age at the time of death and the life expectancy is 70 years, this method would multiply the loss of dependency for 45 years virtually adopting a multiplier of 45 and even if — one-third or one-fourth is deducted therefrom towards the uncertainties of future life and for immediate lump sum payment, the effective multiplier would be between 30 and 34. This is wholly impermissible."

(b) This principle applies to the permanent disability cases also. So, the loss of future earnings have to be calculated by applying the multiplier method. It is evident from the record that the petitioner was aged about 71

[1](2009) 6 SCC 121

years, as on the date of accident and the relevant multiplier is '5'. Since the petitioner was aged above 70 years, she is not entitled for future prospects.

i) Loss of earnings (Past):

As per the evidence of PW.s 1 and 2, it can safely be held that the petitioner was away from work for atleast eight months and it is already stated above that Rs.4,500/- per month is considered towards monthly earnings of the petitioner. So, she is entitled to an amount of Rs.36,000/- (Rs.4,500x 8).

iii) Medical Expenses:

As per the evidence of PWs.1 and 2 coupled with Exs.A6 and A7, petitioner incurred an amount of Rs,74,647/- (Rs.57,100/- and 17,547/-), towards treatment. So, the same is to be considered.

iv) Attendant Charges:

In view of the judgment of Hon'ble Apex Court in ***R.D.Hattangadi Vs M/s. Pest Control (India) Private Limited and Others***[2], the Court need not be mathematical in calculating expenses towards home attendant, but ought to look upon the circumstances prevailing in the society to decide the amount and in the present case at hand, the petitioner took treatment and underwent surgeries, below the knee was amputated, was advised to take bed rest and follow up treatment and as such, she is entitled to attendant charges for 8 months, which is assessed at Rs.10,000/-.

v) Loss of Conveyance:

In ***Sidram Vs. The Divisional Manager, United India Insurance Company Limited and another***[3], the Hon'ble Apex Court held at para No.89 as follows:

> "89. Hence, we may grant the appellant loss of conveyance and special diet up to Rs.50,000/- considering that after the accident at Kulgod-Gokak Road,

[2] 1995 1 SCC 551
[3] (2022) 8 SCR 403

> the appellant was shifted to Lake view Hospital Belgaum wherein he was admitted as an indoor patient from 18.07.2012 to 06.08.2012 for 19 days, and took treatment for the injuries suffered by him, and continued to take the treatment after getting discharged from the Hospital as well."

In the given facts and circumstances of the case, an amount of Rs.20,000/- is awarded towards conveyance.

II) Non-Pecuniary Damages:

i). Pain and Suffering:

The Divisional Controller, KSRTC v. Mahadeva Shetty and Another[4], the Hon'ble Apex Court held thus:

> *"A person not only suffers injuries on account of accident but also suffers in mind and body on account of the accident throughout his life and a feeling is developed that he is no more a normal man and cannot enjoy the amenities of life as another normal person can. While fixing compensation for pain and suffering as also for loss of amenities of life the features like his age, marital status and unusual deprivation he has undertaken in his life has to be reckoned".*

In view of the injuries and permanent disability sustained by the petitioner and the period of treatment taken by her, an amount of Rs.2,00,000/- is awarded towards pain and suffering.

(ii) Loss of Amenities:

a) In ***Pappu Deo Yadav Vs. Naresh Kumar and others[5]***, the Hon'ble Apex Court held thus:

> "The principle consistently followed by this court in assessing motor vehicle compensation claims, is to place the victim in as near a position as she or he was in before the accident, with other compensatory directions for loss of amenities and other payments. These general principles have been stated and reiterated in several decisions (Govind Yadav Vs. New India Insurance Co Limited, (2011) 10 SCC 683."

Having regard to the injuries and treatment, an amount of Rs.10,000/- is awarded towards loss of amenities.

---

[4] 2003 (7) SCC 197
[5] AIR 2020 SCC 4421

b) Further, in ***Govind Yadav Vs. New India Insurance Co Limited***[6], Hon'ble Apex Court held thus:

> "18. In our view, the principles laid down in Aravind Kumar Mishra Vs. New India Assurance Company Limited (2010) 10 SCC 264 and Raj Kumar Vs. Ajay Kumar must be followed by all the Tribunals and the High Courts in determining the quantum of compensation payable to the victims of accident, who are disabled either permanently or temporarily . If the victim of the accident suffers permanent disability, then efforts should always be made to award adequate compensation not only for the physical injury and treatment, but also for the loss earning and his inability to lead a normal life and enjoy amenities, which he would have enjoyed but for the disability caused due to the accused".

c) in ***Surekha v. Santhosh***[7], the Hon'ble Supreme Court held that 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. The learned Tribunal erred in deducting 1/3rd of the total income towards personal expenses as this is the case of injuries. So, in all, the petitioner is entitled to the compensation as follows:

Sl.No.	Description of the head	Amount awarded in Rs.
Pecuniary Damages		
1	Loss of earnings due to disability (4500 X 12 X 5 X 60/100)	1,62,000
2	Loss of earnings	3,600
3	Medical Expenses	74,647
4	Attendant Charges	10,000
5	Loss of conveyance	20,000
	Total	2,70,247
Non Pecuniary Damages		
1.	Pain and suffering	2,00,000
2.	Loss of amenities	10,000
	Total	2,10,000

[6] (2011) 10 SCC 683
[7] (2021) 16 SCC 467

	Total Amount (pecuniary+non-pecuniary damages)	**Rs.4,80,247/-** **Rounded to Rs.4,80,000/-**

d). In the court's well considered view that in accordance with the propositions of law laid down by the Hon'ble Apex Court, the compensation of is just and reasonable.

e). So far as the liability of the respondents is concerned, it is to be noted that a finding is already recorded in issue No.1, holding that respondent No.1/Driver of APSRTC bus was solely responsible for the accident and as such, respondent No.2 and 3 are vicariously liable and indemnify the liability of respondent No.1. Hence, this issue is answered, holding that the respondent Nos.1 and 2 are jointly and severally liable to pay compensation.

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 considering quantum of compensation. For the foregoing reasons and findings in point Nos.1 and 2, the order of learned Tribunal in respect of quantum of compensation is not sustainable in facts and law and as such, liable to be set aside. Hence, this point is answered accordingly.

13. Point No.4:

(i) **In the result**, this Motor Accident Civil Miscellaneous Appeal is allowed, and the compensation awarded by the tribunal is enhanced from **Rs.2,87,000/- (Rupees two lakhs eighty seven thousand only) to Rs.4,80,000/- (Rupees four lakhs eighty thousand only)** together with interest at the same rate as awarded by the tribunal, from the date of the claim petition till the date of realization.

(ii) Time for deposit, as aforesaid, with interest, excluding the amount, if any, already deposited, is one (1) month from the date of receipt of a copy of this judgment.

(iii) On such deposit, the petitioner is permitted to withdraw the compensation as awarded supra along 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

12.10.2026.
SSA/ knl