APHC010269162016

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3604]**
(Special Original Jurisdiction)

SATURDAY, THE 10th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 1793/2016

Between:

1. N.B. SANTHAMMA, S/O. N.B. GOVINDA REDDY, LANDLADY, R/O. PEDDA POTUCHENU VILLAGE, PACHIKAPALLAM POST, VEDURUKUPPAM MANDAL, CHITTOOR DISTRICT.

...APPELLANT

AND

1. Y SUBRAMANYA REDDY ANOTHER, S/O. PEDDA REDDY, OWNER OF THE JEEP BEARING NO. AP 03 V 7323, R/O. KONDAKINDAPALLI VILLAGE, THRUMALAIAHPALLI POST, VEDURUKUPPAM MANDAL, CHITTOOR DISTRICT.
2. M/S NATIONAL INSURANCE COMPANY LTD PRAKASAM ROAD, T.NAGAR,CHENNAI, REP.BY ITS DIVISIONAL MANAGER, P.K. LAYOUT, TIRUPATI, CHITTOOR DISTRICT.

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Court aggrieved by the Order and Decree dated 5-9-2012 passed in MVOP No. 11 of 2008 on the file of Motor Accidents Claims Tribunal Cum IV Additional District Judge, Tirupati, Chittoor District.

IA NO: 1 OF 2013(MACMAMP 1067 OF 2013

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 4 days in filing the appeal and pass

IA NO: 3 OF 2013(MACMAMP 4416 OF 2013

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

Counsel for the Appellant:

1. SRICHARAN TELAPROLU

Counsel for the Respondent(S):

1. S A V RATNAM

The Court made the following:

THE HON'BLE SMT. JUSTICE SUNITHA GANDHAM

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 1793 OF 2016

JUDGMENT:

This Motor Accident Civil Miscellaneous Appeal is filed against the order and decree dated 05.09.2012 in M.V.O.P.No.11 of 2008 passed by the Motor Accident Claims Tribunal-cum-IV Additional District Judge, Tirupati, petitioner preferred the instant appeal seeking enhancement of compensation granted.

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 15.12.2005 at about 3.00 A.M, while the petitioner, her husband and other relatives were proceeding in a jeep bearing No.AP 03 V 7323 so as to go to Kanipakam to solemnize the marriage of her daughter and when they reached Puthalapattu Village near Kanipakam cross at about 4.30 A.M, the driver of the jeep drove the same in a rash and negligent manner and dashed against the stationed lorry bearing No.ADC 4919 and as a result of which, petitioner sustained severe multiple injuries. Immediately after the accident, she was shifted to Government hospital, Chittoor and from there shifted to CMC Hospital, Vellore. Basing on the report of the petitioner, a crime was registered *vide* Ex.A1 of the offence under Section 338 of Indian Penal Code (hereinafter referred to as 'the Code') against the driver of the jeep. The accident occurred due to the rash and negligent driving of driver of the jeep and as such, respondents are liable to pay compensation. The petitioner was aged about 50 years, was doing cultivation of their lands in an extent of AC.05.00 cents as her husband is irresponsible, was also doing milk business and was earning Rs.1,00,000/- per annum. Due to the injuries, she sustained disability and lost her source of income. Respondent No.1 driver-Cum-Owner

and respondent No.2 being insurer are jointly and several liable to pay compensation.

4. Respondent No.2 filed counter refuting the averments made in the petition, wherein, *inter alia* contended that the petitioner claimed excessive compensation, there was no negligence on the part of the driver of the jeep, driver of the stationed lorry and also the petitioner in placing her left hand outside the vehicle in a careless and negligent manner were at fault, petition is bad for non-joinder of the necessary parties, 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 petitioner sustained injuries in a motor vehicle accident that took place on 15.12.2005 at about 4.30 A.M at Puthalapattu Village on Chittoor-Tirupati main road, due to rash and negligent driving of the driver of the jeep bearing Regn.No.AP 03 V 7323 belonging to the first respondent insured with second respondent?
>
> 2) Whether the petitioner is entitled to 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 PWs. 2 to 7, and filed Exs.A1 to A20 documents. As against the said evidence, respondents have not adduced either oral or documentary evidence. At the culmination of trial, learned Tribunal allowed the petition in part granting compensation of Rs.4,54,000/- with interest at 7.5% per annum. Feeling aggrieved by the said order and decree dated 05.09.2012, petitioner preferred the instant appeal urging the following grounds:

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

ii) The learned Tribunal has not properly considered the oral as well as documentary evidence to decide the issues.

iii) The learned Tribunal ought to have taken the monthly earnings of the petitioner as Rs.5,000/-.

iv) The learned Tribunal ought to have considered the disability as 100%.

v) The learned Tribunal ought not to have taken the age of the petitioner as between 51 and 55 years and ought to have applied the multiplier of 13 instead of 11, and with other grounds, prayed to allow the appeal.

7. Heard both sides.

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 15.12.2005 occurred due to the rash and negligent driving of jeep bearing No.AP 03 V 7323?
2. Whether the petitioner is entitled for compensation? If so, to what amount?
3. Whether the order and decree dated 05.09.2012 passed by the learned Tribunal are sustainable in facts and law?
4. To what relief?

9. Admittedly, respondents have 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) To prove the contentions, petitioner examined herself as PW.1 and she testified that on 15.12.2005 at about 3.00 A.M, while herself, her husband and

other relatives were proceeding in a jeep bearing No.AP 03 V 7323 so as to go to Kanipakam to solemnize their daughter's marriage and when they reached Puthalapattu Village, at about 4.30 A.M, the driver of the jeep drove the same in a rash and negligent manner and dashed against the stationed lorry bearing No.ADC 4919 and as a result, she sustained severe multiple injuries and immediately after the accident, she was shifted to the Government hospital, Chittoor and from there shifted to CMC Hospital, Vellore, and basing on her report, a crime was registered, against the driver. PW.2/eye witness also stated on the same lines of evidence of P.W.1. Nothing useful material is elicited in the cross examination of PWs. 1 and 2.

(b) Further, as seen from Ex.A1/first information report, crime is registered of the offence under Section 338 of the Code, against the driver of the jeep and after completion of investigation, police found fault with the driver and laid Ex.A2/charge sheet alleging that the accident occurred due to his rash and negligent driving. So, Exs.A1 and A2 supports the evidence of PW.1 and no rebuttal evidence is adduced by the respondents on this aspect. Having received summons, respondent No.1/driver-Cum-Owner, remained exparte. Respondent No.2 failed to examine respondent No.1 who is the best person to speak about the accident and his non examination is fatal to the case of the prosecution. So, in the absence of any rebuttal evidence, the evidence of PW Nos.1 & 2, which is buttressed by Exs.A1 & A2, clinchingly proves that the accident occurred due to the rash and negligent driving of jeep bearing No.AP 03 V 7323 by its driver. Further, as seen from Ex.A4/Wound certificate, petitioner sustained injuries in the road traffic accident. As per the material brought on to the record, this court came to the conclusion that the accident occurred due to the rash and negligent driving of jeep bearing No.AP 03 V 7323 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 47 years, on 15.12.2005, she sustained multiple grievous injuries in the accident, immediately after the accident, she was shifted to the Government Hospital, Chittoor and from there to C.M.C. Vellore and there, she took treatment as in patient, underwent surgeries, her left hand below the arm was amputated, admitted in the same hospital on two more occasions, suffered disability, her husband is not doing cultivation and irresponsible and as such, she was doing cultivation of their Ac.5.00 cents of land and also doing milk business, was earning Rs.1,00,000/- per annum, due to the injuries and disability, she lost earning capacity and income, and filed Exs.A4/Wound certificate, A5/Permanent disability certificate, A6/Discharge summary, Exs.A10 & 14/Bunch of medical bills, Exs.A11 & 12/Boarding and lodging charge and Exs.A15 to 20/Land related documents.

(b) So far as age of the petitioner is concerned, in Ex.A4, her age is mentioned as 51 years and as such, it can safely be concluded that the petitioner was aged about 51 years, as on the date of accident. Insofar as her income, P.W.3, the Sarpanch, stated that the petitioner owned Ac.2.00 cents of land in Pachikapallam Village and Ac.3.00 cents in Komaragunta Village and was earning Rs.1,00,000/- per annum from agriculture and milk business, her husband is irresponsible and as such, she has been attending cultivation works and admitted Exs.A15 to A20/title deeds, pattadar passbooks and Adangal extracts.

(c) P.W.4/Ex.V.A.O. of Pachikapallam Group Village, P.W.7/present V.R.O. of the said village and P.W.6/V.R.O. of Kommaragunta Village, also stated that the family of the petitioner owning Ac.05.00 Cents of agricultural lands in their village. In the given facts and circumstances and having considered the fact that the petitioner was a housewife and a member of an agricultural

family, on a reasonable hypothesis, her income can be assessed at Rs.7,500/- per month, i.e., Rs.90,000/- per annum.

(d) Insofar as injuries and treatment of the petitioner, on perusal of Ex.A4/Wound certificate, petitioner received following injuries:

1) 10x5 cm lacerated wound over volar aspect of left forearm exposing the muscles tendons and bones.

2) 4x2 c.m., lacerated wound over dorsal aspect of left forearm in middle third communicating with the wound on volar aspect.

3) Type III C compound fracture of both bones left forearm distal third.

(e) Admittedly, petitioner has not examined the doctor who gave treatment. In this regard, it is to be noted that, non-examination of the specific treating doctor who initially administered emergency care or carried out surgical procedures is not fatal to the petitioner's case. What is legally required is the authentic proof of the resulting permanent functional disability, which can be validly established by examining the qualified medical practitioner who conducted the subsequent evaluation and issued the disability certificate, or by a member of a duly constituted Medical Board.

(f) The central inquiry under Section 168 of the Motor Vehicles Act, 1988, is the determination of ‘just compensation’ based on the present extent of physical loss and functional impairment at the time of claim adjudication. While treatment records such as discharge summaries, case sheets, and medical bills serve as contemporaneous documentary proof of the injury itself, the assessment of permanent disability is a distinct retrospective evaluation of residual bodily damage. The doctor who examines the claimant, performs clinical and radiological tests, and issues the disability certificate provides direct expert evidence regarding this ongoing impairment, making the presence of the original treating physician redundant for this specific determination.

(g) Because the Motor Vehicles Act is a welfare legislation designed to protect victims of road accidents, Tribunals operate under a relaxed standard of procedure and are not bound by rigid technicalities of the Evidence Act. So long as the underlying treatment documents are filed on record to establish a clear causal link between the accident and the physical trauma, the testimony of the doctor who issued the disability certificate provides a sufficient legal basis to award compensation for loss of earning capacity.

(h) To prove her injuries and disability, petitioner has got examined doctor as PW5 and he testified that the petitioner suffered a crush injury to the left hand, resulting in amputation below the elbow, and assessed her permanent disability at 70% under Ex.A5. He stated that, owing to the amputation, she cannot work efficiently, requires assistance for household activities and cannot perform labour work permanently. There is no reason to disbelieve the evidence of P.W.5 coupled with Exs.A.4 to 6, 10 and 14.

(i) With regard to the functional disability, in view of the decision of Hon'ble Apex court in ***Raj Kumar Vs. Ajay Kumar and another***[1], this court has to consider the following three aspects to ascertain the effect of permanent disability on the actual earning capacity:

> Firstly, what activities the claimant could carry on in spite of the permanent disability and what he could not do as a result of the permanent disability (this is also relevant for awarding compensation under the head of loss of amenities of life).
>
> Secondly, his avocation, profession and nature of work before the accident, as also his age.
>
> Thirdly, whether (i) the claimant is totally disabled from earning any kind of livelihood, or (ii) whether in spite of the permanent disability, the claimant could still effectively carry on the activities and functions, which he was earlier carrying on, or (iii) whether he was prevented or restricted from discharging his previous activities and functions, but could carry on some other or lesser scale of activities and functions so that he continues to earn or can continue to earn his livelihood.

[1] (2011) 1 SCC 343

Further, in the same case of ***Raj Kumar*** (Supra) Hon'ble Apex Court held as follows:

> "19. We may now summarize the principles discussed above:
>
> (i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.
>
> (ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that the percentage of loss of earning capacity is the same as the percentage of permanent disability).
>
> (iii) The doctor who treated an injured claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard to the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.
>
> (iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors."

j) In the present case at hand, petitioner suffered a crush injury to the left hand, resulting in amputation below the elbow, owing to the amputation, she cannot work efficiently, requires assistance for household activities and cannot perform cultivation and house hold works and as such, functional disability of 70% has to be considered. The details of compensation under each head are as follows:

I. Pecuniary Damages:

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

Having considered the nature of work, age and other allied aspects, this court assessed the functional disability of the petitioner at 70%. In ***Sarla Verma v. Delhi Transport Corporation***[2], 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

[2] (2009) 6 SCC 121

> 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."

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 51 years, as on the date of accident and the relevant multiplier is '11'.

Further, in ***National Insurance Company Limited Vs. Pranay Sethi & others***[3], three Judge bench of Hon'ble Apex Court has considered the claim for future prospects of a victim, a carpenter, who has suffered permanent disability.

(ii).**Loss of earnings (past):**

As per the evidence of PW. Nos.1 and 5, the petitioner was away from work for eight months. The learned Tribunal considered the monthly income of the petitioner at Rs.5,000/-. However, in the given facts and circumstances coupled with the evidence of PW Nos.1, 3 and 4, monthly income of the petitioner at Rs.7,500/- shall be considered. So, she is entitled to an amount of Rs.60,000/- (Rs.7,500/- x 8).

(iii) **Medical Expenses:**

As per the evidence of PWs.1 and 5 coupled with Exs.A10 and A14, petitioner incurred an amount of Rs.52,865/-, towards treatment. So, the same is to be considered.

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[3] *(2017) 16 SCC 680*

(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***[4]***,*** 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, was advised bed rest and also follow up treatment, and as such, she is entitled to attendant charges for two months, which are assessed at Rs.20,000/-.

(v) Loss of Conveyance:

In ***Sidram Vs. The Divisional Manager, United India Insurance Company Limited and another***[5] (Supra), 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, 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."

Having considered the injuries and treatment she has taken, an amount of Rs.15,000/- is awarded towards conveyance.

II. Non-Pecuniary Damages:

(i) Pain and Suffering:

The Divisional Controller, KSRTC v. Mahadeva Shetty and Another[6]***,*** 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*

[4] 1995 1 SCC 551
[5] (2022) 8 SCR 403
[6] 2003 (7) SCC 197

> *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***[7], 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.

b) Further, in ***Govind Yadav Vs. New India Insurance Co Limited***[8], 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".

[7] AIR 2020 SCC 4421
[8] (2011) 10 SCC 683

c) So, in all, the petitioner is entitled to the compensation as follows:

S.No.	HEADS		CALCULATION
I	**Pecuniary damages:**		
i)	Loss of earnings due to disability (7,500 X 12 X 11 X70/100)	Rs.	6,93,000/-
ii)	Future Prospects (6,93,000X 10/100)	Rs.	69,300/-
iii)	Loss of earnings (past) for 8 months (7,500x8)	Rs.	60,000/-
iv)	Medical expenses	Rs.	52,865/-
v)	Attendant charges	Rs.	20,000/-
vi)	conveyance	Rs.	15,000/-
	Total		9,00,165/-
II	**Non Pecuniary expenses:**		
vii)	Pain and suffering	Rs.	2,00,000/-
viii)	Loss of amenities	Rs.	10,000/-
	Total		2,10,000/-
	TOTAL (pecuniary+non-pecuniary damages) (9,00,165+2,10,000)	Rs.	**11,20,165/- (rounded to 11,20,200/-)**

d) In this court's well considered view that the compensation of Rs.11,10,200/- is just, fair 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 the jeep bearing No.AP 03 V 7323 was solely responsible for the accident, and respondent No.2/insurance company are vicariously liable to indemnify the liability of respondent No.1. It is not in dispute that the policy of the offending vehicle was in force as on the date of accident. 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 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:

i) **In the result**, this Motor Accident Civil Miscellaneous Appeal is allowed, and the compensation awarded by the tribunal is enhanced from **Rs.4,54,000/- (Rupees Four Lakhs Fifty four Thousand Only) to Rs.11,20,000/- (Rupees Eleven Lakhs Twenty 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 subject to payment of additional court fee on Rs.1,20,000/- (Rupees One Lakh Twenty Thousand only) by the petitioner/claimant before the Registry within thirty (30) days from today.

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

10.10.2026

Vns