APHC010453422009

IN THE HIGH COURT OF ANDHRA PRADESH

AT AMARAVATI

Bench

Sr.No:-20

[3396]

MOTOR ACCIDENT CIVIL MISCELLANEOUS

APPEAL NO: 2276 of 2009

I. Yellamma And Another and Others ...Appellant(s)

Vs.

APSRTC rep by its Managing Director ...Respondent

Musheerabad, Hyderabad.

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CORAM : DR JUSTICE VENKATA JYOTHIRMAI PRATAPA

DATE : 24th November 2026

Present:

Advocate for Appellants: T NAGARJUNA REDDY

Advocate for Respondent: ARAVALA RAMA RAO(SC FOR APSRTC KKAC)

The Court made the following Judgment:

This appeal has been preferred under Section 173 of the Motor Vehicles Act, 1988 (for short, "the M.V. Act"), by the Appellants – Claimants against the Award dated 25.10.2007 passed by the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge, Madanapalle (for short, "the Tribunal"), in O.P.No.96 of 2007, awarding compensation of Rs.1,00,000/- with proportionate costs and interest at the rate of 7.5% per annum from the date of filing of the petition till the date of realisation, against the Respondent – Andhra Pradesh State Road Transport Corporation.

2. For the sake of convenience, the parties are hereinafter referred to as they are arrayed before the Tribunal in the claim petition.

3. The averments of the claim petition, in brief, are as follows:

(i) Petitioner No.1 is the wife and Petitioner No.2 is the son of the deceased, I. Krishnaji Rao. The deceased was aged about 75 years at the time of the accident and was engaged in agricultural activities. He was having Ac.3-00 cents of his own agricultural land and Ac.2-00 cents of leased agricultural land and was earning Rs.4,500/- per month through cultivation.

(ii) On 25.05.2004, at about 3.35 p.m., while the deceased was proceeding on foot on the left side of the road in front of the Panchayat Office at Piler, the offending bus bearing registration No.AP-10-Z-7268,

belonging to the Respondent Corporation and being driven by its driver in a rash and negligent manner, dashed against him. As a result, the deceased fell down and sustained grievous injuries all over his body.

(iii) Immediately after the accident, the deceased was shifted to the Community Health Centre, Piler, and thereafter to Sri Venkateswara Ramanarayana Ruia Government General Hospital, Tirupati, and subsequently to Sri Venkateswara Institute of Medical Sciences (SVIMS), Tirupati, for better treatment. After discharge from the hospital, while undergoing medication for the injuries sustained in the accident, he died on 21.07.2004.

(iv) The police registered a case in Crime No.71 of 2004 of Piler Police Station initially under Section 337 of the Indian Penal Code, which was subsequently altered to Section 304-A of the Indian Penal Code consequent upon the death of the deceased. The case was numbered as C.C.No.241 of 2004 on the file of the Court of the Judicial Magistrate of First Class, Piler.

(v) The Petitioners further pleaded that they had incurred an amount of Rs.1,25,000/- towards medical and other expenses for the treatment of the deceased. Hence, they filed the claim petition seeking compensation of Rs.3,50,000/- with interest at the rate of 12% per annum.

4. The Respondent Corporation filed its written statement denying the material averments of the claim petition and contending that the accident had not occurred due to any rash or negligent driving on the part of the driver of the offending bus. It was further contended that the accident occurred solely due to the negligence of the deceased, who suddenly crossed the main road. The Respondent also disputed the quantum of compensation claimed by the Petitioners and contended that the same was excessive.

5. On the basis of the above pleadings, the Tribunal framed the following issues:

1. Whether the accident occurred due to rash and negligent driving of the offending bus bearing No.AP-10-Z-7268, resulting in the death of the deceased Krishnaji Rao?
2. Whether the Petitioners are entitled to compensation? If so, by whom and to what amount?
3. To what relief?

6. Before the Tribunal, the 1st Petitioner was examined as P.W.1 and another witness was examined as P.W.2. Exs.A1 to A10 were marked on behalf of the Petitioners. The driver of the offending bus was examined as R.W.1 on behalf of the Respondent Corporation. No documentary evidence was adduced on behalf of the Respondent.

7. On appreciation of the oral and documentary evidence, the Tribunal held that the accident occurred due to the rash and negligent driving of the offending bus by its driver. However, the Tribunal declined to accept the

monthly income of Rs.4,500/- claimed by the Petitioners, observing that the deceased was aged about 75 years and, therefore, could not have been earning income through agricultural activities. The Tribunal awarded a total compensation of Rs.1,00,000/- under the following heads:

(a) Rs.15,000/- towards loss of estate;

(b) Rs.15,000/- towards loss of consortium to Petitioner No.1; and

(c) Rs.70,000/- towards medical and other expenses.

8. Aggrieved by the inadequacy of the compensation awarded by the Tribunal, the Petitioners preferred the present appeal seeking enhancement of compensation.

9. Heard Sri T. Nagarjuna Reddy, learned counsel appearing for the Appellants and Sri Aravala Rama Rao, learned Standing Counsel for A.P.S.R.T.C.

10. Learned counsel for the Appellants/Claimants submits that the Tribunal erred in not considering the evidence available on record regarding the agricultural income of the deceased. It is submitted that the deceased owned Ac.3-00 cents of agricultural land and was also cultivating Ac.2-00 cents of leased land and earning Rs.4,500/- per month. Learned counsel further submits that merely because the deceased was aged 75 years, it cannot be presumed that he was incapable of carrying on agricultural activities.

It is further contended that the Tribunal awarded inadequate amounts towards loss of consortium and loss of estate and also erred in restricting the medical expenses to Rs.70,000/-, despite the deceased having survived for 58 days after the accident and the medical records produced as Exs.A6 to A9. Learned counsel, therefore, prays for enhancement of compensation.

11. Per contra, learned counsel for the Respondent Corporation submits that the Tribunal, after considering the entire evidence available on record, has awarded just and reasonable compensation and that there are no grounds warranting interference by this Court.

12. Considered the submissions made by learned counsel on either side and perused the material available on record, including the oral and documentary evidence adduced before the Tribunal.

13. The point that arises for consideration is:

"Whether the compensation awarded by the Tribunal is just and reasonable or requires interference by this Court by way of enhancement?"

POINT:

14. There is no dispute with regard to the occurrence of the accident on 25.05.2004 involving the offending bus bearing registration No.AP-10-Z-7268 and the death of the deceased on 21.07.2004. The Tribunal, upon appreciation of the evidence of P.W.2, R.W.1 and the documentary evidence,

particularly Ex.A2 – charge sheet, held that the accident occurred due to the rash and negligent driving of the offending bus by its driver. The said finding has not been seriously disputed before this Court. Therefore, the finding of the Tribunal on Issue No.1 does not warrant interference.

15. Coming to the quantum of compensation, the first aspect to be considered is the age and income of the deceased. As per the averments in the claim petition and the documentary evidence, particularly Exs.A3 and A4, the age of the deceased at the relevant time was 75 years. The said finding of the Tribunal does not warrant interference. Therefore, the age of the deceased is taken as 75 years and the applicable multiplier, in terms of the principles laid down by the Hon'ble Supreme Court in ***Sarla Verma v. Delhi Transport Corporation***[1], is '5'.

16. With regard to the income of the deceased, the specific case of the Petitioners is that the deceased was earning Rs.4,500/- per month through agricultural activities by cultivating Ac.3-00 cents of his own land and Ac.2-00 cents of leased land. In support of their contention, the Petitioners relied upon Ex.A10, which is the photostat copy of the title deed book relating to the deceased.

The Tribunal rejected the contention of the Petitioners mainly on the ground that the deceased was aged 75 years and, therefore, could not have been earning income by attending to agricultural activities.

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[1] **(2009) 6 SCC 121**

However, merely because the deceased was aged 75 years, it cannot automatically be presumed that he was incapable of carrying on agricultural activities or earning income therefrom. At the same time, the ownership of agricultural land, by itself, does not conclusively establish the exact monthly income claimed by the Petitioners. In the absence of cogent documentary evidence establishing the actual income of the deceased, the income requires to be assessed on a reasonable and notional basis, having regard to the nature of his avocation and the material available on record.

In the circumstances of the case, this Court is inclined to assess the monthly income of the deceased at Rs.3,000/- for the purpose of determining the loss of dependency.

17. With regard to future prospects, in view of the Constitution Bench judgment of the Hon'ble Supreme Court in ***National Insurance Company Limited v. Pranay Sethi***[2], since the deceased was aged 75 years at the time of the accident, no addition towards future prospects is warranted. Accordingly, the monthly income of the deceased remains at Rs.3,000/-.

18. As per the principles laid down in ***Sarla Verma*** (referred to supra), since the deceased was survived by two dependants, namely, his wife and son, 1/3rd of his income has to be deducted towards his personal and living expenses. After deducting 1/3rd towards personal expenses, the monthly contribution of the deceased to the family would be Rs.2,000/-. The

[2] **(2017) 16 SCC 680**

annual contribution would be Rs.24,000/-. Applying the multiplier of '5', the loss of dependency would come to Rs.1,20,000/- (Rs.24,000/- x 5).

19. With regard to the conventional heads, the Tribunal awarded Rs.15,000/- towards loss of estate and Rs.15,000/- towards loss of consortium to the 1st Petitioner. However, the amounts awarded under the conventional heads require reconsideration in the light of the judgments of the Hon'ble Supreme Court in ***Magma General Insurance Company Limited v. Nanu Ram @ Chuhru Ram and Others.,***[3] **and** ***United India Insurance Company Limited v. Satinder Kaur @ Satwinder Kaur and Others***[4]**.**

In ***Magma General Insurance Company Limited v. Nanu Ram @ Chuhru Ram and Others*** (referred to supra)**,** the Hon'ble Supreme Court explained that the expression 'consortium' includes spousal consortium, parental consortium and filial consortium. Parental consortium is granted to a child upon the death of a parent, whereas spousal consortium is granted to the surviving spouse.

In the present case, Petitioner No.1, being the wife of the deceased, is entitled to spousal consortium, and Petitioner No.2, being the son of the deceased, is entitled to parental consortium. Accordingly, both the Petitioners are entitled to compensation under the head of loss of consortium.

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[3] (2018) 18 SCC 130
4.(2022) SCC OnLine SC 1683

In view of the principles laid down in ***Pranay Sethi*** (supra), as subsequently applied by the Hon'ble Supreme Court in ***Rojalini Nayak and Others v. Ajit Sahoo and Others***[5], the amount payable towards consortium is taken at Rs.48,400/- to each eligible claimant. Thus, the Petitioners are entitled to Rs.96,800/- towards loss of consortium.

The Petitioners are further entitled to Rs.18,150/- towards loss of estate and Rs.18,150/- towards funeral expenses.

20. With regard to medical and other expenses, the Petitioners claimed an amount of Rs.1,25,000/- towards the treatment and other expenses incurred for the deceased. The Tribunal, after considering Exs.A6 to A9, awarded Rs.70,000/- under the said head.

A perusal of the material available on record would disclose that the deceased survived for a period of 58 days after the accident and underwent treatment at different hospitals, including Sri Venkateswara Institute of Medical Sciences, Tirupati. Ex.A6 is the discharge summary, Ex.A7 is the out-patient card, Ex.A8 is the inpatient bill and cash receipt, and Ex.A9 is the bunch of medical bills.

The Tribunal specifically observed that the Petitioners had not taken steps to prove Ex.A9 by examining the persons who issued the medical bills. Nevertheless, the inpatient treatment records and the medical bill issued by SVIMS establish that the deceased underwent treatment for a considerable

[5] 2024 INSC 584

period. The Tribunal, therefore, awarded Rs.70,000/- towards medical and other expenses.

Having regard to the nature of treatment, the period of hospitalisation and the material available on record, this Court finds that the amount of Rs.70,000/- awarded by the Tribunal under this head is reasonable. In the absence of satisfactory proof establishing the entire amount claimed, the same does not warrant further enhancement.

21. In view of the foregoing discussion, the compensation payable to the Petitioners is re-determined as follows:

Heads of Compensation	**Award of the Tribunal**	**Compensation awarded by this Court**
Loss of dependency	Nil	Rs.1,20,000/-
Loss of consortium	Rs.15,000/-	Rs. 96,800/-
Loss of estate	Rs.15,000/-	Rs. 18,150/-
Funeral expenses	Nil	Rs. 18,150/-
Medical and other expenses	Rs.70,000/-	Rs. 70,000/-
Total	**Rs.1,00,000/-**	**Rs.3,23,100/-**

22. Thus, the total compensation payable to the Petitioners comes to Rs.3,23,100/- as against Rs.1,00,000/- awarded by the Tribunal. Therefore, the Petitioners are entitled to an enhancement of Rs.2,23,100/-.

23. With regard to the rate of interest, the Tribunal awarded interest at the rate of 7.5% per annum from the date of filing of the claim petition till realisation. Having regard to the facts and circumstances of the case and the

prevailing principles governing the award of interest in motor accident claims, this Court finds no ground to interfere with the rate of interest awarded by the Tribunal. Accordingly, the enhanced compensation shall also carry interest at the rate of 7.5% per annum from the date of filing of the claim petition till the date of deposit.

24. In view of the foregoing discussion and the principles laid down by the Hon'ble Supreme Court in the judgments referred to supra, this Court is of the opinion that the award passed by the Tribunal warrants interference to the extent indicated above. Accordingly, the compensation is enhanced from Rs.1,00,000/- to Rs.3,23,100/-.

25. In the result, the M.A.C.M.A. is partly allowed, enhancing the compensation from Rs.1,00,000/- to Rs.3,23,100/- with proportionate costs and interest at the rate of 7.5% per annum from the date of filing of the claim petition till the date of deposit.

(ii) The Respondent Corporation is directed to deposit the enhanced compensation amount, together with accrued interest and costs, within a period of two months from the date of receipt of a copy of this judgment, after giving credit to the amount, if any, already deposited or paid.

(iii) Upon such deposit, the Appellants/Claimants are entitled to withdraw the compensation amount in the same proportion as apportioned by

the Tribunal, together with the proportionate accrued interest thereon, after giving credit to the amounts, if any, already withdrawn.

(iv) The Tribunal shall disburse the compensation amount to the Appellants/Claimants in accordance with the above directions.

As a sequel, interlocutory applications pending for consideration, if any, shall stand closed.

Dr. JUSTICE VENKATA JYOTHIRMAI PRATAPA

Date:24.11.2026
RJS/SZT

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THE HONOURABLE DR JUSTICE VENKATA JYOTHIRMAI PRATAPA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 2276/2009

Dt: 24.11.2026

RJS/SZT