APHC010609322017

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

MONDAY, THE 2ND DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 1476/2017

Between:

1. CHAGALAMARRI HIMA BINDU & 3 ORS, W/O.LATE GANGA RAJU, OCC: HOUSEWIFE R/O.VIVEKANANDA NAGAR, KADAPA, YSR DISTRICT.
2. CHAGALAMARRI NOYES, S/O.LATE GANGA RAJU, MINOR, REP BY HIS NATURAL GUARDIAN AND MOTHER C.HIMA BINDU R/O.VIVEKANANDA NAGAR, KADAPA, YSR DISTRICT.
3. CHAGALAMARRI GANGADHARA RAO, S/O.MUNAIAH R/O.VIVEKANANDA NAGAR, KADAPA, YSR DISTRICT.
4. CHAGALAMARRI SAROJA, W/O.GANGADHARA RAO R/O.VIVEKANANDA NAGAR, KADAPA, YSR DISTRICT.

...APPELLANT(S)

AND

1. P MALLIKARJUNA ANR, S/O.RAMAIAH OWNER OF THE HERO HONDA MOTOR CYVLE NO.AP 04 AG 2818 R/O.RASULPALLI VILLAGE, C.K.DINNE MANDAL, YSR DISTRICT.
2. THE ICICI LOMBARD GENERAL INSURANCE COMPANY LIMITED, REP BY ITS LEGAL MANAGER O/O.6-3-352/1, OSMAN PLAZA, 3RD AND 4TH FLOOR, ROAD NO.1, BANJARA HILLS, HYDERABAD, TELANGANA STATE.

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High CourtMACMA aggrieved by the order dated 10.03.2016 made in MVOP No.172/2013 on the file of the court of the Chairman, Motor Accidents Claims Tribunal cum Principal District Judge, Kadapa

IA NO: 1 OF 2017(MACMAMP 2738 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 condone the delay of 274 days in re-presenting the above appeal

IA NO: 2 OF 2017(MACMAMP 2739 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 dispense with the filing of the copy of judgement dated 10.03.2016 made in MVOP No.172/2013 on the file of the court of the Chairman, Motor Accidents Claims Tribunal cum Principal District Judge, Kadapa

IA NO: 3 OF 2017(MACMAMP 2740 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 condone the delay of 17 days in presenting the appeal

IA NO: 4 OF 2017(MACMAMP 2741 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 eenhance the compensation amount from Rs.20,00,000/- to Rs.26,57,867/- against the decree and order dated 10.03.2016 made in MVOP No.172/2013 on the file of the court of the Chairman, Motor Accidents Claims Tribunal cum Principal District Judge, Kadapa

Counsel for the Appellant(S):

1. V R REDDY KOVVURI

Counsel for the Respondent(S):

1. GUDI SRINIVASU
2.

The Court made the following:

THE HON'BLE SMT. JUSTICE SUNITHA GANDHAM

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 1476 OF 2017

JUDGMENT:

This appeal is filed by the petitioners against the order and decree dated 10.03.2016 in M.V.O.P.No.172 of 2013 passed by the Chairman, Motor Vehicle Accident Claims Tribunal-cum-Principal District Judge, Kadapa, seeking enhancement of compensation.

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

3. **The case of the petitioners is thus**:

On 04.08.2011, while the deceased along with his friend proceeding to Palagiri village on his motor cycle bearing No.AP04-AA-4256 and when they reached Christian lane, suddenly their motor cycle started giving trouble and then, they gave the motorcycle for repair. The deceased requested his friend B. Mallikarjuna to provide his motor cycle and accordingly, Mallikarjuna gave his motor cycle bearing No.AP04-AG-2818. Then while deceased and his friend going on the said motor cycle and when they reached Prakasampalli at about 12.45 P.M, the rider of the motor cycle bearing No.AP04-AG-2818 rode the same in a rash and negligent manner, could not control the motorcycle as the buffalo came across the road, applied sudden breaks and as a result of which, deceased fell down and sustained injuries. Immediately after accident, the deceased shifted to the RIMS Hospital, Kadapa and thereafter, he was shifted to SVIMS Hospital, Tirupati for better treatment and on the way to the said hospital, Gangaraju died. As on the date of the accident, deceased hale and healthy, was aged about 30 years, working as police constable in A.P.S.P. XI Battalian at Bharakapet, Sidhout Mandal, YSR District and was earning Rs.14,536/- per month and contributing the same for maintenance of his

family. Due to the sudden demise, all the petitioners, who are dependants and legal representatives of deceased lost their financial support as well as love and affection. The accident occurred due to the rash and negligent riding of rider of the motor cycle bearing No.AP04-AG-2818 and as such, a case in Crime No.140 of 2011 is registered of the offence under Section 304-A of the Indian Penal Code (hereinafter referred to as 'the Code') against the rider of the offending vehicle. Respondent No.1 is owner and respondent No.2 is insurer of motor cycle bearing No.AP04-AG-2818 and as such, both the respondents are jointly and severally liable to pay the compensation.

4. Respondent No.1/Owner of the offending vehicle filed counter refuting the averments made in the petition, wherein, *inter alia* contended that at the request of the rider of the motor cycle bearing No.AP04-AA-4256, he gave his motor cycle, the accident occurred due to the rash and negligent riding of rider of the motor cycle, petitioners claimed excessive compensation, and with other formal denials, prayed to dismiss the petition.

5. Respondent No.2 filed written statement refuting the averments made in the petition, wherein, *inter alia* contended that this respondent is not liable to pay compensation since alleged motor cycle bearing No.AP04-AG-2818 was not involved in the said accident, the said vehicle is planted to claim compensation, petitioners colluded with respondent No.1 and police, petitioners claimed excessive compensation, and with other formal denials, prayed to dismiss the petition.

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

> 1) Whether the deceased B. Gopal Rao died in the accident occurred on 04.08.2011 due to rash and negligent driving of the driver of the Hero Honda Splendor motor cycle bearing No.AP04-AG-2818 resulting death of the deceased by name Chagalamarri Gaga Raju?
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> 2) Whether the claimants are entitled to compensation, if so, to what extent, and from which of the respondents?

3) To what relief?

7. During trial, petitioner No.1 examined herself as PW.1 and the petitioners have got examined independent witnesses as PW Nos.2 to 4, and filed Exs.A1 to A6, and filed X1 and X2 documents. As against the said evidence, respondent No.2 has got examined Md. Babu as RW.1 and filed Ex.B1/Insurance policy. At the culmination of trial, learned Tribunal awarded compensation of Rs.20,00,000/- for the untimely death of Sri Ganga Raju.

8. Being aggrieved by the said order and decree, the petitioners/claimants preferred the instant appeal, urging the principal grounds that:

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

(ii) The learned Tribunal grossly erred in awarding Rs.20,00,000/- even though petitioners are entitled for Rs.26,57,867/-.

(iii) The learned Tribunal failed to consider the ratio laid down by the Hon'ble Apex Court in ***Rajesh and Others v. Rajbir Singh and Others*** [1], wherein, the Hon'ble Apex Court was pleased to grant Rs.25,000/- for funeral expenses, Rs.1,00,000/- towards consortium and Rs.1,00,000/- towards love and affection.

(iv) The learned Tribunal erred in considering the established principles of law to award just and fair compensation and with other formal grounds, prayed to allow the appeal.

9. Heard both sides.

10. Perused petition and other material available on record including the impugned order dated 10.03.2016.

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

[1] (2013) 9 SCC 54

(1) Whether the Ganga Raju died in the accident dated 04.08.2011 occurred due to the rash and negligent riding of the rider of the motor cycle bearing No.AP04-AG-2818?

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

(3) Whether the order and decree dated 10.03.2016 passed in M.V.O.P.No.172 of 2013 by the Chairman, Motor Vehicle Accident Claims Tribunal-cum-Principal District Judge, Kadapa, are sustainable in facts and law?

(4) To what relief?

12. Admittedly, respondents have not filed any appeal or cross objection 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.

13. **Point No.1:**

(a) 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. In order to prove the manner and method of accident, petitioners relied upon the evidence of PW Nos.2 and 3 coupled with Exs.A1 to A5 documents. It is evident from the record that 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 Nos.2 and 3 and they categorically stated that the accident occurred due to the rash and negligent riding of rider of motorcycle bearing No. AP04-AG-2818.

(b) As seen from EX.A1/First information report, accident occurred due to the radh and negligent riding of Srinivasulu/rider of the said motorcycle and after completion of investigation, police laid EX.A4/Charge sheet alleging that

he is responsible for commission of accident. No rebuttal evidence is adduced by the respondents. Having filed counter, respondent No.1 failed to enter into witness box and he has not examined rider of the motorcycle who is best person to speak about the accident and his non-examination is fatal to the case of respondents. It is already stated above that the respondent No.2 has not preferred any appeal or cross objection, challenging the finding of the learned Tribunal in respect of the rash and negligent riding of the rider of the motorcycle. So, the evidence of PW No.1 to 3 coupled with the EXs.A1 to A5 clinchingly proves that the accident occurred due to the rash and negligent riding of rider of the motor cycle. As seen from EX.A2/Inquest report and EX.A3/Postmartem report, Ganga Raju sustained injuries and succumbed to the said injuries. Hence, this point is answered in the affirmative and in favour of the petitioners, holding that the accident occurred due to the rash and negligent riding of the rider of the motor cycle bearing No.AP04-AG-2818.

14. **Point No.2:**

(a) As per the version of petitioners, petitioner No.1 is wife, petitioner No.2 is minor daughter and petitioner Nos.3 & 4 are parents of the deceased and the deceased hale and healthy, aged about 30 years, working as Constable and was drawing Rs.14,536/- per month, as on the date of the accident and due to the sudden demise of husband of petitioner No.1, all the petitioners lost their financial support as well as love and affection. As seen from EX.A2/Inquest report and EX.A3/Post-mortem report, age of the deceased is mentioned as 30 years. There is no contra evidence to that effect. So, it can safely be concluded that the age of the deceased was 30 years as on the date of accident. The relevant multiplier is ‘17’. The petitioners who are none other than the legal representatives and dependants of the deceased are entitled for compensation.

(b) So far as earnings of the deceased is concerned, petitioners relied upon the evidence of P.W.4 coupled with EX.A6/X1/Salary certificate and X2/Long roll certificate. Having produced EX.X1 and X2, P.W.4 testified that the deceased working as constable, was earning Rs.14,536/- per month. As seen from EX.A6/Salary certificate, deceased drawing salary of Rs.14,536/- per month. There is no reason to disbelieve the version of petitioners coupled with the evidence of P.W.4 and EXs.A6, X1 and X2 documents.

(c) Admittedly, petitioners filed the claim application seeking compensation of Rs.20,00,000/- and the learned Tribunal awarded compensation of Rs.20,00,000/-. Learned counsel for the petitioner submitted that just and fair compensation may be awarded. Applying the principles in ***Sarala Varma and Others Vs. Delhi Transport Corporation and another***[2] and ***National Insurance Company Ltd Vs. Pranay Sethi and others***[3] and ***Magma General Insurance Company Limited v. Nanu Ram alias Chuhru Ram and others***[4], this court has assessed the compensation as follows:

Sl. No.	**Heads**		**Calculation**
1.	Annual Income (Rs.14536 X 12)	Rs.	1,74,432.00
2.	Deduction towards personal expenses (1,74,432x1/4)	Rs.	43,608.00
3.	Total income (1,74,432-43,608)	Rs.	1,30,824.00
4.	Future prospects (50% of 1,30,824)	Rs.	65,412.00
5.	Total loss of dependency (1,30,824+65,412)x17	Rs.	33,36,012.00
6.	Loss of consortium (40,000x4) (spousal+parental+filial)	Rs.	1,60,000.00
7.	Funeral expenses	Rs.	15,000.00
8.	Loss of estate	Rs.	15,000.00
	Total	Rs.	**35,26,012/- (rounded to Rs.35,26,000/-)**

[2] (2009) 6 SCC 121
[3] (2017) 16 SCC 680
[4] (2018) 18 SCC 130

(d) In the given facts and circumstances of the case, petitioners are entitled for **Rs.35,26,000/- (Rupees Thirty Five Lakhs Twenty Six Thousand 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 respondents is concerned, a finding is already recorded in point No.1 holding that the accident occurred due to the rash and negligent riding of rider of the motor cycle bearing No.AP04-AG-2818 and as such, the respondent No.1/Owner of the motor cycle is vicariously liable for the acts done by his rider. Respondent No.2 did not dispute the validity period of the policy and as such, respondent No.2/insurance company is liable to indemnify the liability of respondent No.1. Respondent Nos.1 and 2 are jointly and severally liable to pay compensation. Hence, this issue is answered in favour of the petitioners and against the respondents.

15. 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.

16. 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, and the compensation awarded by the learned Tribunal is enhanced **from Rs.20,00,000/- (Rupees Twenty Lakhs only) to Rs.35,26,000/- (Rupees Thirty Five Lakhs Twenty Six 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.15,26,000/- (Rupees Fifteen Lakhs Twenty Six Thousand only) by the petitioners before the Registry within thirty (30) days from today.

(ii) Out of the said compensation amount, **Rs.25,26,000/- (Rupees Twenty Five Lakhs Twenty Six Thousand Only)** is awarded to the petitioner No.1. **Rs.5,00,000/- (Rupees Five Lakhs Only)** is awarded to the petitioner No.2. **Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand Only) each** is awarded to the petitioner Nos.3 and 4. Apportionment is ordered accordingly.

(iii) 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.

(iv) On such deposit, petitioner Nos.1, 3 and 4 are permitted to withdraw the compensation as awarded supra along with accrued interest thereon, excluding the amount, already paid.

(v) The award amount of petitioner No.2 shall be kept in fixed deposit, in any nationalized bank, till she 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

Dt:02.11.2026
Vns