APHC010907932016

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

MONDAY, THE 5th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 2307/2016

Between:

1. S. KRISHNAIAH, S/O S.NARASIMHULU @ NARASAIAH, AGED ABOUT 34 YEARS, R/O CHINNABBANAIDU KANDRIGA VILLAGE, PUTTUR MANDAL, CHITTOOR DISTRICT.

...APPELLANT

AND

1. S S LAKSHMI ANOTHER, W/O THURAMAN, OWNER OF CAR BEARING NO.TN09AW0352, R/O NATHAMUNI STREET, T.NAGAR, CHENNAI.
2. RELIANCE GENERAL INSURANCE COMPANY, REP. BY ITS BRANCH MANAGER, HOLDING ITS OFFICE AT CHENNAI.

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Courtaggrieved by the order and decree dated 24.5.2016 passed in M.V.O.P.No.255 of 2012 by the learned Chairman, Motor Accidents Claims Tribunalcum-IV Additional District Judge, Tirupathi

Counsel for the Appellant:

1. P JAGADISH CHANDRA PRASAD

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: 2307 OF 2016

JUDGMENT:

This Motor Accident Civil Miscellaneous Appeal is filed against the award and decree dated 24.05.2016 in M.V.O.P.No.255 of 2012 passed by the Motor Accident Claims Tribunal-cum-IV Additional District Judge, Tirupati, petitioner preferred the instant appeal seeking enhancement of compensation.

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 29.05.2011, while the petitioner, his relative Reddaiah and his brother's son Niranjan were returning from Puttur on his motorcycle bearing No.AP 03 AR 4436 and when they reached near Middigunta village at 3.20 P.M, driver of Indigo car bearing No.TN 09 AW 0352 drove the same in a rash and negligent manner and dashed against their two wheeler and as a result of which, petitioner sustained severe multiple injuries. Immediately after the accident, he was shifted to C.M.C hospital, Vellore. Basing on the report of the wife of the petitioner, a case in crime No.105 of 2011 is registered of the offences under Sections 338, 337 and 279 of Indian Penal Code (hereinafter referred to as 'the Code') and Sections 134 (a) and (b) of the Motor Vehicle Act, against the driver of Indigo car . The accident occurred due to the rash and negligent driving of driver of Indigo car and as such, respondents are 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 Indigo car,

rider of the two wheeler was at fault, petition is bad for non-joinder of the owner and insurer of the said motor cycle and 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 took place due to rash and negligent driving of Indigo car bearing No.TN 09AW 0352 of 1st respondent by its driver?
>
> 2) Whether the petitioner is entitled to compensation and if so to what amount and from whom?
>
> 3) To what relief?

6. During trial, petitioner himself examined as PW1 and he has got examined PWs 2 to 4, and filed Exs.A1 to A13 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 granting compensation of Rs.3,94,490/- with interest at 7.5% per annum. Feeling aggrieved by the said award and decree dated 24.05.2016, petitioner preferred the instant appeal urging the following grounds:

i) The Award and decree of the learned tribunal is illegal, arbitrary, unjust and contrary to law.

ii) The learned tribunal has not properly considered the oral and documentary evidence to decide the issues.

iii) The learned tribunal failed to consider the income of the petitioner.

iv) The learned tribunal erred in fixing the daily income at Rs.150/- per day instead of Rs.400/-.

v) The learned tribunal failed to appreciate the evidence of PW4 who deposed that mason worker daily wage is Rs.400/- to Rs.500/-, 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 accident dated 29.05.2011 occurred due to the rash and negligent driving of Indigo car bearing No.TN 09 AW 0352?
2. Whether the petitioner is entitled for compensation? If so, to what amount?
3. Whether the Award and decree dated 24.05.2016 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 himself as PW1, filed examination in chief affidavit in lieu of his chief examination reiterating the averments made in the petition. PW1 testified that on 29.05.2011, at about 03:20 P.M, while himself and two others were going by two wheeler and when their two wheeler reached near Middigunta village, driver of Indigo car bearing No.TN 09 AW 0352 drove the same in a rash and negligent manner and dashed against their two wheeler and as a result, he sustained multiple injuries and since the accident occurred due to the rash and negligent driving of Indigo car, a case in crime No.105 of 2011 is registered of the offence under Sections 338, 337 and 279 of the Code and Sections 134 (a) and (b) of the Motor Vehicle Act, 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.105 of 2011 is registered of the offences stated *supra* against the driver of Indigo car and after completion of investigation, police found fault with the driver and laid charge sheet *vide* Ex.A2 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. Added to it, having received notice, respondent No.1 remained ex parte and both the respondents failed to examine driver of the offending vehicle who is the best person to speak about the accident and his non examination is fatal to the case of the respondents. So, in the absence of any rebuttal evidence, the evidence of PW No.1, which is buttressed by Exs.A1 & A2, clinchingly proves that the accident occurred due to the rash and negligent driving of Indigo car bearing No.TN 09 AW 0352 by its driver. Further, as seen from Ex.A3/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 Indigo car bearing No.TN 09 AW 0352 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, he was hale and healthy, was aged about 30 years, was working as mason maistry and was earning Rs.400/- to Rs.500/-, and immediately after commission of accident, he was shifted to C.M.C. Vellore, took treatment as in patient for more than 75 days, underwent surgeries, suffered loss of income and disability, and filed Exs.A3/wound certificate, A4/discharge summaries, A5 to 8/consolidated bills, Ex.A9/O.P slips, Ex.A10/Travel trip sheets, A11/Bunch of medical bills.

(b) To prove his injuries and treatment, petitioner has got examined doctor as PW2 and he testified that on 13.05.2011, the petitioner was admitted in

their hospital with the injuries of left shaft humerus, bilateral tibia fracture, left fibula fracture, right shaft of femur fracture, left distal radius fracture and all the injuries are grievous in nature, on 30.05.2011, the petitioner underwent IM Nailing right femur orif right tibia and external fixator application for left leg and on 07.06.2011, petitioner underwent left distal radius orif and he was discharged on 18.06.2011. PW2 further testified that on 07.08.2011, petitioner admitted in their hospital, underwent Ilizarov ring application for left tibia and was discharged on 31.08.2011 and again, on 24.10.2011, he admitted and underwent left leg skin release on 24.10.2011 and was discharged on the same day and thereafter, he was again admitted on 02.08.2012, underwent surgery of left leg row area skin grafting for right thigh and underwent surgeries on 21.08.2012 and 19.11.2012, for left tibia and for right tibia debridement respectively. Finally, he testified that the petitioner sustained 20 to 25% disability and to prove disability, petitioner filed Ex.A13/Disability certificate issued by the hospital where he has taken treatment. Having considered the injuries and treatment taken by the petitioner coupled with medical record, the learned tribunal had considered the functional disability at 20% and in view of the avocation of the petitioner, the same can be accepted.

(c) PW3/owner of the travels stated that on several occasions, the petitioner hired car from their travels so as to go to Vellore CMC Hospital. As per the evidence of PW3 coupled with Ex.A10, petitioner spent an amount of Rs.74,255/- towards traveling expenses.

(d) Insofar as age and income of the petitioner is concerned, he filed Ex.A12/Construction worker registration card issued by the Assistant Labour Officer, Puttur and examined PW4 who testified that the petitioner was working as mason maistry and was earning Rs.400/- to Rs.500/- per day, as on the date of the accident and the learned tribunal had considered earnings of the petitioner at Rs.150/- per day as the PW4 failed to produce any document showing actual payments. One cannot expect detailed

documentary proof from the person who had given evidence supporting the avocation of the injured. In the given facts and circumstances coupled with the fact that the accident occurred in the year 2011 and on a reasonable hypothesis, monthly earnings of the petitioner have to be considered at (200x30) Rs.6,000/-. As seen from Ex.A3/wound certificate, age of the petitioner is 30 years. There is no contra evidence to that effect. So, it can safely be concluded that the petitioner was aged about 30 years, as on the date of the accident.

(e) So, as per the evidence of PWs 1 to 4 coupled with Exs.A1 to A13, petitioner sustained grievous injuries, underwent seven surgeries, took treatment for more than 75 days, admitted in hospital on several occasions from 13.05.2011 to 29.11.2012, incurred Rs.2,05,633/- towards treatment, 74,255/- towards transpiration, lost income during the period of treatment and also suffered functional disability at 20% 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 20. 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."

[1] (2009) 6 SCC 121

(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 30 years, as on the date of accident and the relevant multiplier is '17'. Further, in ***National Insurance Company Limited Vs. Pranay Sethi*** [2], the Hon'ble Apex Court considered the claim for future prospects of a victim, a carpenter, who had suffered permanent disability. Since, the petitioner was aged about 30 years, 40% of the future prospects have to be taken into consideration.

i**i) Loss of earnings (Past):**

As per the evidence of PW.s 1 and 2, the petitioner was away from work for the period from 13.05.2011 to 29.11.2012 and it is already stated above that Rs.6,000/- per month has to be considered towards monthly earnings of the petitioner, as on the date of accident. So, he is entitled to an amount of Rs.1,08,000/- (Rs.6,000x18).

iii) Medical Expenses: As per the evidence of PWs.1 and 2 coupled with Exs.A5 to A9 and A11, petitioner incurred an amount of Rs.2,05,633/-, 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*** [3], 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, he is entitled to attendant charges for 18 months, which is assessed at Rs.18,000/-.

[2] 2017 (16) SCC 680
[3] 1995 1 SCC 551

v) Loss of Conveyance: In ***Sidram Vs. The Divisional Manager, United India Insurance Company Limited and another***[4] (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."

As per the evidence of PW3 coupled with Ex.A10, an amount of Rs.74,255/- is awarded towards conveyance.

II) Non-Pecuniary Damages:

(i) Pain and Suffering:

The Divisional Controller, KSRTC v. Mahadeva Shetty and Another[5]**,** 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 him, an amount of Rs.2,00,000/- is awarded towards pain and suffering.

(ii) Loss of Amenities:

In ***Pappu Deo Yadav Vs. Naresh Kumar and others***[6], the Hon'ble Apex Court held thus:

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[4] (2022) 8 SCR 403
[5] 2003 (7) SCC 197

> "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.20,000/- is awarded towards loss of amenities.

Further, in ***Govind Yadav Vs. New India Insurance Co Limited***[7], 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".

f) 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:

S.No.	HEADS		CALCULATION
I	**Pecuniary damages:**		
i)	Loss of earnings due to disability (6,000 X 12 X 17 X20/100)	Rs.	2,44,800/-
ii)	Future Prospects (2,44,800X 40/100)	Rs.	97,920/-
iii)	Loss of earnings (past) for 18 months (6,000x18)	Rs.	1,08,000/-
iv)	Medical expenses	Rs.	2,05,633/-
v)	Attendant charges	Rs.	18,000/-
vi)	conveyance	Rs.	74,255/-
	Total		7,48,608/-
II	**Non Pecuniary expenses:**		

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

vii)	Pain and suffering	Rs.	2,00,000/-
viii)	Loss of amenities	Rs.	20,000/-
	Total		2,20,000/-
	TOTAL (pecuniary+non-pecuniary damages) (7,48,608+2,20,000)	Rs.	9,68,608/- (rounded to 9,68,700/-)

g) In this court's well considered view that in accordance with the propositions of law laid down by the Hon'ble Apex Court, the compensation of Rs. 9,68,700/- is just and reasonable. It is needless to say that though the petitioner claimed compensation of Rs.5,00,000/-, in view of the settled principles of law, just and fair compensation is to be awarded to the petitioner.

h) 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 driver of Indigo car bearing No.TN 09 AW 0352 was solely responsible for the accident and respondent No.2/insurance company is vicariously liable to indemnify the liability of respondent No.1/owner. 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.3,94,490/- (Three lakhs ninety four thousand four hundred ninety rupees only) to Rs. 9,68,700/- (Rupees Nine lakhs sixty-eight thousand seven hundred 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

Dt:05.10.2026

Vns

Whether the order is :

✓
Speaking Yes/No / Reasoned Yes/No

✓
Reportable Yes/No / Non-Reportable Yes/No