THE HON'BLE SMT. JUSTICE SUNITHA GANDHAM

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 3403 OF 2017

JUDGMENT:

Assailing the Order and decree dated 28.08.2017 in M.V.O.P.No.300 of 2016 passed by the Chairman, Motor Vehicle Accident Claims Tribunal-cum-Principal District Judge, Kadapa, respondent Nos.1 and 2 filed the instant appeal for awarding compensation at Rs.12,00,000/- for the untimely death of K. Mani Raju.

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 24.12.2015 at about 06.30 P.M, while the deceased proceeding from Porumamilla to Kalasapadu on his motorcycle and when he reached Sidda Murthipalli Village, the driver of APSRTC bus bearing No.AP28 Z 820 drove the same in a rash and negligent manner and dashed against his motorcycle and as a result of which, deceased sustained fatal injuries. Immediately after the accident, while he was shifting to RIMS Hospital, Kadapa, died on the way to hospital. As on the date of the accident, deceased hale and healthy, was aged about 18 years, working as motorcycle mechanic and was earning Rs.300/- per day and contributing the same for maintenance of his family. Due to the sudden demise, the petitioners, who are dependants of the deceased lost their financial support as well as love and affection. Since the accident occurred due to the rash and negligent driving of the driver of the APSRTC bus bearing No.AP28 Z 820, a case in Crime No.103 of 2015 is registered of the offences under Sections 337 and 304-A of the Indian Penal Code (hereinafter referred to as 'the Code') against the driver of the offending vehicle. Respondent No.1 is APSRTC represented by its Regional Manager,

Kadapa City, respondent No.2 is the Manager, APSRTC Depot, Giddaluru (town), Prakasam District and respondent No.3 is the driver of the offending vehicle and as such, the respondents are jointly and severally liable to pay the compensation.

4. Having received notice, respondent Nos.2 and 3 remained *ex parte.* Respondent No.1 filed written statement refuting the averments made in the petition, wherein, *inter alia* contended that there is no negligence on the part of the driver of the bus, the said bus was not at all involved in the accident and it is planted for the purpose of the case, a false case is foisted against the driver of the bus as the accident took place prior to the arrival of the bus at the spot where accident took place, deceased had no valid driving license, as on the date of the accident, petitioners claimed excessive 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 deceased K. Mani Raju died due to the injuries sustained in a motor vehicle accident on 24.12.2015, due to rash and negligent driving of the driver of the APSRTC bus bearing No.AP28-Z-820?
>
> 2) Whether the petitioners are entitled for compensation, if so, to what amount and from whom?
>
> 3) To what relief?

6. During trial, petitioner No.2 examined himself as PW.1 and the petitioners have got examined independent witnesses as P.W Nos.2 & 3, and filed Exs.A1 to A4 documents. As against the said evidence, respondent No.1 has not adduced either oral or documentary evidence. At the culmination of trial, learned Tribunal awarded compensation of Rs.12,00,000/- for the untimely death of K. Mani Raju.

7. Being aggrieved by the said Order and decree, the respondent Nos.1 and 2/appellants 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 ought to have held that there was no negligence on the part of the driver of the bus and that the accident occurred only due to the rash and negligent driving of the deceased.

(iii) The learned Tribunal ought to have seen that the deceased had no valid driving license.

(iv) The learned Tribunal erroneously taken the income of the deceased at Rs.6,000/- per month.

(v) The learned Tribunal erred in awarding compensation under various heads and granted excessive compensation.

(vi) The learned Tribunal erroneously added 50% of the income to the actual income of the deceased towards future prospects, and with other formal grounds, prayed to allow the appeal.

8. Heard both sides.

9. Perused petition and other material available on record including the impugned order dated 28.08.2017.

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

(1) Whether K. Mani Raju died in the accident dated 24.12.2015 occurred due to the rash and negligent driving of the driver of the APSRTC bus bearing No.AP28-Z-820?

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

(3) Whether the Order and decree dated 28.08.2017 passed in M.V.O.P.No.300 of 2016 by the Chairman, Motor Vehicle Accident Claims Tribunal-cum-Principal District Judge, Kadapa are sustainable in facts and law?

(4) To what relief?

11. Admittedly, petitioners 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.

12. **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.2 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.1 and 2 coupled with Exs.A1 to A4 documents. It is evident from the record that P.W.1 who is father 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 P.W.2 and he testified that on 24.12.2025, he attended beldari work in Chennareddypalli Village and after completion of work, while he was proceeding to his village, driver of the APSRTC bus bearing No.AP28 Z 820 drove the same in a rash and negligent manner and dashed against the motorcycle of the deceased and as a result, deceased fell down and his motorcycle dashed one Thirupal Reddy, he also sustained injuries. According to him, the accident occurred only due to rash and negligent driving of the driver of the bus.

(b) Further, a case in crime No.103 of 2015 under Sections 337 & 304-A of the Code is registered *vide* EX.A1/First information report against the driver of the APSRTC bus and after completion of investigation, police laid EX.A4/Charge sheet alleging that the accident occurred due to the rash and

negligent driving of driver of the bus. No rebuttal evidence is adduced by the respondents. Having filed written statement, respondent No.1 has not examined the driver of the bus who is the best person to speak about the accident and his non-examination is fatal to the case of respondents. So, the evidence of P.Ws.1 and 2 coupled with EXs.A1 and A4 clinchingly proves that the accident occurred due to the rash and negligent driving of driver of the bus. It is evident from EX.A3/Postmortem report that the deceased succumbed to the injuries sustained in the accident. Hence, this point is answered holding that the accident occurred only due to the rash and negligent driving of driver of the APSRTC bus bearing No.AP 28 Z 820, deceased sustained injuries in the said accident and succumbed to the said injuries.

13. **Point No.2:**

(a) As per the version of petitioners, they are parents of the deceased and the deceased hale and healthy, aged about 18 years, working as motorcycle mechanic and was earning Rs.300/- per day, as on the date of the accident and due to his sudden demise, they 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 18 years. There is no contra evidence to that effect. So, it can safely be concluded that the age of the deceased was 18 years as on the date of accident and the relevant multiplier is ‘18’. The petitioners who are none other than the dependants of the deceased are entitled for compensation.

(b) So far as earnings of the deceased is concerned, petitioners have relied upon the evidence of P.W.3 and he testified that the deceased working as two wheeler mechanic in his mechanic shed and was drawing Rs.300/- per day. The learned Tribunal assessed the notional monthly income at Rs.6,000/-. There is no reason to disbelieve the evidence of P.W.3 and except posing bald suggestions, nothing useful material is elicited in the cross examination of

P.W.3. In the given facts and circumstances coupled with the evidence of P.W.3 and on a hypothesis basis, monthly income of the deceased have to be considered at Rs.9,000/-.

(c) By applying the principles in ***Sarala Varma and Others Vs. Delhi Transport Corporation and another***[1] and ***National Insurance Company Ltd Vs. Pranay Sethi and others***[2] and ***Magma General Insurance Company Limited v. Nanu Ram alias Chuhru Ram and others***[3], this court has assessed the compensation as follows:

Sl. No.	**Heads**		**Calculation**
1.	Annual Income (Rs.9000 X 12)	Rs.	1,08,000.00
2.	Deduction towards personal expenses (1,08,000x1/2)	Rs.	54,000.00
3.	Total income (1,08,000-54000)	Rs.	54,000.00
4.	Future prospects (40% of 54000)	Rs.	21,600.00
5.	Total loss of dependency (54,000+21,600) = 75,600x18	Rs.	13,60,800.00
6.	Loss of consortium (40,000x2) (filial)	Rs.	80,000.00
7.	Funeral expenses	Rs.	15,000.00
8.	Loss of estate	Rs.	15,000.00
	Total	Rs.	**14,70,800.00**

(d) In the given facts and circumstances of the case, petitioners are entitled for **Rs.14,70,800/- (Rupees Fourteen Lakhs Seventy Thousand Eight Hundred Only)** and in this courts well considered view, the compensation awarded is just, adequate and reasonable, as the deceased left his dependents.

[1] (2009) 6 SCC 121
[2] (2017) 16 SCC 680
[3] (2018) 18 SCC 130

(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.3/Driver of bus bearing No.AP28 Z 820 was solely responsible for the accident and respondent Nos.1 & 2/APSRTC are vicariously liable to indemnify the liability of respondent No.3/driver. Hence, this issue is answered, holding that the respondent Nos.1 to 3 are jointly and severally liable to pay compensation.

14. Point No.3:

Upon reappraisal of the evidence on record, and for the foregoing reasons, this court came to 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.

15. Point No.4:

(i) **In the result**, and in view of the findings in point Nos.1 to 3, this Motor Accident Civil Miscellaneous Appeal is dismissed, while modifying the order of the learned Tribunal by enhancing the compensation **from Rs.12,00,000/- (Rupees Twleve Lakhs Only) to Rs.14,70,800/- (Rupees Fourteen Lakhs Seventy Thousand Eight 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, subject to payment of additional court fee on **Rs.4,70,800/- (Rupees Four Lakhs Seventy Thousand Eight Hundred Only)** by the petitioners before the Registry within thirty (30) days from today.

(ii) Out of the said compensation amount, **Rs.7,35,400/- (Rupees Seven Lakhs Thirty Five Thousand Four Hundred Only) each** is awarded to the petitioner Nos.1 and 2. 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 and 2 are permitted to withdraw the compensation as awarded supra along with accrued interest thereon, excluding the amount, already paid.

(v) 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

Whether the order is :

Speaking Yes/No ✓ / Reasoned Yes/No

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