APHC010928622018

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

TUESDAY, THE 6th DAY OF OCTOBER 2026

**PRESENT**

**THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM**

**MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 3255/2018**

**Between:**

1. ANDHRA PRADESH STATE ROAD TRANSPORT CORPORATION, REP. BY ITS MANAGING DIRECTOR, HYDERABAD.

**...APPELLANT**

**AND**

1. BANDARU DURGA KANAKA DURGA, W/O SAMBASIVA RAO, AGED ABOUT 42 YEARS, R/O.SURYANARAYANA NAGAR, RATNALACHERUVU, MANGALAGIRI, GUNTUR DISTRICT.
2. CHITTIPROLU MALLESWARI, W/O SRINIVASA RAO, AGED ABOUT 28 YEARS, R/O.SURYANARAYANA NAGAR, RATNALACHERUVU, MANGALAGIRI, GUNTUR DISTRICT.
3. BANDARU MAHESH, S/O SAMBASIVA RAO, AGED ABOUT 42 YEARS, R/O.SURYANARAYANA NAGAR, RATNALACHERUVU, MANGALAGIRI, GUNTUR DISTRICT.
4. RAMISETTY SRINIVASA RAO, S/O YALLA RAO, AGED ABOUT 36 YEARS, PATHURU VILLAGE, NARASARAOPET MANDAL, GUNTUR DISTRICT.

**...RESPONDENT(S):**

Appeal filed under Order 41 of CPC before the High Courtto allow the MACMA by setting aside the Judgment and Decree dated 25-05-2018 passed in M.V.O.P. No. 969 of 2015 on the file of the Court of Motor Vehicles Accidents Claims Tribunal-Cum-II Additional District Court, Guntur and pass such further Order or Orders as this Hon'ble Court may deems fit and proper in the circumstances of the case.

**IA NO: 1 OF 2018**

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 56 days in filing the appeal against the judgement and decree dated 25.05.2018 passed in MVOP No.969 of 2015 on the file of the court of the MACT cum II Additional District court, Guntur and pas

**IA NO: 2 OF 2018**

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 grant stay of all further proceedings pursuant to the judgement and decree dated 25.05.2018 passed in MVOP No.969 of 2015 on the file of the court of the MACT cum II Additional District Judge Court, Guntur including the execution proceedings pending disposal of the above MACMA and pass

**Counsel for the Appellant:**

1. P VENKATA RAO SC For APSRTC

**Counsel for the Respondent(S):**

1. SIVA PRASAD KATAKAMSETTY

**The Court made the following:**

**THE HON'BLE SMT. JUSTICE SUNITHA GANDHAM**

**MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 3255 OF 2018**

**JUDGMENT:**

Assailing the judgment and decree dated 25.05.2018 in M.V.O.P.No.969 of 2015 passed by the Chairman, Motor Vehicle Accident Claims Tribunal-cum-II Additional District Judge, Guntur, respondent No.1/APSRTC has preferred the instant appeal for awarding compensation of Rs.10,38,000/- for the untimely death of Bandaru Sambasiva Rao.

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**:

(a) On 29.01.2015 at 7.15 p.m., while the deceased crossing the road, the driver of the RTC bus bearing No.AP 28 Z 4731 drove the same in a rash and negligent manner and dashed against the deceased and as a result of which, Sri Bandaru Sambasiva Rao died on the spot.

(b) Basing on the report of the petitioners, a case in crime No.21 of 2015 is registered of the offence under Section 304-A of Indian Penal Code (hereinafter referred to as 'the Code') against the respondent No.2. Deceased aged about 53 years, hale and healthy, working as weaver, was earning Rs.10,000/- per month and used to contribute his earnings to his family. Due to the sudden demise, petitioners, who are dependants and legal representatives of deceased, lost financial support as well as love and affection. Petitioner No.1 is wife, petitioner Nos.2 & 3 are children of the deceased. Petitioners spent Rs.30,000/- towards funeral expenses and Rs.5,000/- towards transportation. Respondent No.1 is owner of the APSRTC

bus, respondent No.2 is the driver and as such, both the respondents are jointly and severally liable to pay the compensation.

4. Respondent Nos.1 and 2 filed two separate written statements contending that the accident occurred due to the negligence of the deceased and there was no negligence on the part of respondent No.2, petitioners claimed excessive compensation, petitioner Nos.2 & 3 are major and married children of the deceased and as such, they are not entitled for 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 death of deceased Bandaru Sambasiva Rao occurred due to rash and negligent driving of the driver of the APSRTC bus bearing No.AP 28 Z 4731?
>
> 2) Whether the petitioners are entitled for compensation, if so, to what amount, from which of the respondents?
>
> 3) To what relief?

6. During trial, petitioner No.1 examined herself as PW.1 and have got examined PW.2 as an eye witness, and filed Exs.A1 to A5 documents. As against the said evidence, respondent No.2 has got examined its employees as RW. Nos.1 and 2 and no documents are filed. At the culmination of trial, the learned Tribunal allowed the claim petition in part and awarded the compensation of Rs.10,38,000/- with interest at 7.5% per annum from the date of petition till the date of deposit or realization.

7. Being aggrieved by the said judgment and decree, the respondent No.1 preferred the instant appeal, urging the principal grounds that:

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

(ii) The learned Tribunal failed to appreciate evidence in proper perspective.

(iii) The learned Tribunal erred in holding that the accident occurred due to the rash and negligent driving of the driver of the APSRTC bus without there being any acceptable evidence on record.

(iv) The learned Tribunal ought not to have considered the income of the deceased at Rs.10,000/- per month.

(v) The learned Tribunal granted excessive compensation and rate of interest, and with other formal grounds, prayed to allow the appeal.

8. Heard Sri B. Nagendra Babu, learned counsel representing Sri P. Venkata Rao, learned counsel for the appellant and Sri K. Siva Prasad, learned counsel for the respondents/claimants. Perused the material available on record including the impugned judgment dated 25.05.2018.

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

(1) Whether Bandaru sambasiva Rao died in the accident dated 29.01.2015 occurred due to the rash and negligent driving of the respondent No.2?

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

(3) Whether the judgment and decree dated 25.05.2018 passed in M.V.O.P.No.969 of 2015 by the Chairman, Motor Accident Claims Tribunal-cum-II Additional District Judge, Guntur, are sustainable in facts and law?

(4) To what relief?

10. Admittedly, the petitioners have not filed any appeal or cross objections against the findings in respect of quantum of compensation, 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.

11. **Point No.1:**

(a) Now, it is necessary to analyze the evidence on record to answer the points. As seen from the record, absolutely there is no dispute in respect of the factum of accident. During trial, petitioner No.1 filed examination-in-chief affidavit in lieu of her chief examination by reiterating the averments mentioned in the petition, and petitioners relied upon the evidence of PW.2, and Exs.A1 to A5 documents. 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.2 and he testified that on 29.01.2015, while the deceased crossing the road, driver of the APSRTC bus bearing No.AP 28 Z 4731 drove the same in a rash and negligent manner and dashed against the deceased and as a result of which, he died on the spot. Nothing useful material is elicited in the cross examination of PW2. Respondent No.1 has got examined the driver conductor of the said bus as RWs.1&2. Having stated in their evidence that the deceased crossing the road in a drunken state of mind and negligently, accident occurred due to his negligence and there was no negligence on the part of the respondent No.2, they categorically admitted that the crime is registered against R.W.1. As rightly observed by the learned Tribunal that the said plea has not been taken by the respondents in the written statements filed by them.

(b) Further, Ex.A1/First information report reveals that a case in Cr.No.21 of 2015 is registered of the offence punishable under Section 304-A of the Code, against the respondent No.2 and after completion of investigation, police laid Ex.A2/Charge sheet alleging that the accident occurred only due to the rash and negligent driving of the respondent No.2. Respondents failed to adduce

any rebuttal evidence. So, in the absence of any rebuttal evidence of PW Nos.1 & 2 which is buttressed by Exs.A1 and A2 clinchingly proves that the accident occurred due to the rash and negligent driving of the driver of the APSRTC bus bearing No. AP 28 Z 4731. As seen from the Ex.A3/Inquest report and Ex.A4/Postmortem report, deceased sustained injuries in the road traffic accident and died on the spot. 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 the APSRTC bus bearing No. AP 28 Z 4731 by its driver, Bandaru Sambasiva Rao sustained injuries and succumbed to the said injuries. Hence, this point is answered in the affirmative and in favour of the petitioners.

12. **Point No.2:**

(a) As per the version of the petitioners, the deceased hale and healthy, aged about 53 years, working as weaver, was earning Rs.10,000/- per month and the petitioners, who are wife and children of the deceased, lost financial support, love and affection. As seen from Ex.A3/Inquest report and Ex.A4/Postmortem report, age of the deceased is mentioned as 53 years. There is no contra evidence to that effect. So, it can safely be concluded that the age of the deceased was 53 years, as on the date of accident.

(b) Learned counsel for the respondent No.2 would argue that the petitioner Nos.2 and 3 are major and married daughter and son of the deceased, they are not dependents and as such, they are not entitled for compensation. In this regard, it is be mentioned that in the judgment of ***Smt. Manjuri Bera v. Oriental Insurance Co. Ltd. & Anr***[1], wherein it was held that a legal representative of the deceased, though not dependent upon the deceased, is entitled to maintain a claim petition. So, the petitioners who are wife and children of the deceased are entitled for compensation.

[1] (2007) 10 SCC 643

(c) Insofar as the earnings of the deceased is concerned, the learned tribunal has considered the monthly earnings of the deceased at Rs.10,000/- per month. Admittedly, petitioners have not adduced any supportive oral as well as documentary evidence to show the actual earnings of the deceased, however, having considered the material, learned tribunal has rightly taken the notional income of the deceased at Rs.10,000/-, to award compensation.

(d) Having considered the principles laid down by the Hon'ble Apex Court in ***Sarala Varma and Others Vs. Delhi Transport Corporation and another***[2] and ***National Insurance Company Ltd Vs. Pranay Sethi and others***[3], the learned tribunal awarded compensation of Rs.10,38,000/-, under all heads.

(e) In the present facts and circumstances of the case, this court is of the considered view that the learned Tribunal has awarded just and fair compensation to the petitioners. So far as liability of the respondents is concerned, a finding is recorded in point No.1 holding that the respondent No.2/driver of the APSRTC bus bearing No.AP 28 Z 4731 was solely responsible for the accident and as such, respondent No.1/APSRTC is liable to indemnify the acts committed by the respondent No.2. So, both the respondents are jointly and severally liable to pay compensation. Hence, this point is answered in the affirmative and against the respondents.

**13. Point No.3:**

On a careful re-appreciation of the entire evidence and having regard to the foregoing discussion, this Court is of the considered view that the findings recorded by the learned Tribunal regarding the manner of the accident, negligence of driver of APSRTC bus, the death of Bandaru Sambasiva Rao, his occupation and income, and the consequent entitlement to compensation are supported by the evidence on record. The respondents have failed to

[2] (2009) ACJ 1298
[3] (2017) 6 SCC 680

establish any legal or factual infirmity warranting interference with the impugned judgment. Absolutely there are no merits to interfere in the findings given by the learned tribunal. Hence, this point is answered in favour of the petitioners and against the respondents.

**14. 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 dismissed, confirming the judgment and decree dated 25.05.2018 in M.V.O.P.No.969 of 2015 passed by the Chairman, Motor Vehicle Accident Claims Tribunal-cum-II Additional District Judge, Guntur. 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**

Dated 06.10.2026
Vns

**Whether the order is :**

✓
Speaking Yes/No / Reasoned Yes/No

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