



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

[3505]

MONDAY, THE SIXTH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 22/2021

Between:

1. APSRTC, BEARING NO.AP28Z3305, RAYACHOTY DEPOT, REP.BY ITS REGIONAL MANAGER, APSRTC REGIONAL OFFICE, BESIDES KADAPA DISTRICT COURT, KADAPA CITY AND YSR KADAPA DISTRICT.

...APPELLANT

AND

1. SHAIK SHABANA, W/O LATE SHAIK MUHEBULLA CR MUHEEB, MUSLIM, OCC. HOUSEWIFE, AGED ABOUT 26 YEARS (WIFE OF DECEASED).
2. SHAIK SAMEER, S/O LATE SHAIK MUHEBULLA MUHEEB, MUSLIM, AGED ABOUT 9 YEARS, MINOR, STUDENT, (SON OF DECEASED).
3. SHAIK MARIYAM, D/O LATE SHAIK MUHEBULLA MUHEEB, MUSLIM, AGED ABOUT 6 YEARS, (DAUGHTER OF DECEASED).
4. SHAIK BASHA SAHEB, S/O LATE SHAIK SILAR SAB, MUSLIM, OCC. COOLIE, AGED ABOUT 57 YEARS, (FATHER OF DECEASED).
5. SHAIK SIRAJUNNISA, W/O SHAIK BASHA SAHEB, MUSLIM, OCC. HOUSEWIFE, AGED ABOUT 50 YEARS, (MOTHER OF DECEASED). (RESPONDENTS 2 AND 3 ARE MINORS, REPRESENTED BY RESPONDENT NO.1 AS NATURAL GUARDIAN AND MOTHER)
6. SYED RASOOL, S/O FAKRUDDIN, AGED ABOUT 52 YEARS, DRIVER OF APSRTC BUS BEARING NO.AP28Z3305, RAYACHOTI

DEPOT, RAYACHOTY, YSR KADAPA DISTRICT.

...RESPONDENT(S):

Appeal filed under Order 41 of CPC praying that the Highcourt may be pleased to allow the appeal by setting aside the Judgment and decree passed by the order and decree dated 06.03.2020 passed in MVOP No. 120 of 2016 On the file of the Motor Accident Claims Tribunal cum V Addl. District Judge, Rayachoty to pass

IA NO: 1 OF 2021

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 execution of decree in pursuant to MVOP No. 120 of 2016 dated. 06.03.2020 On the file of the Motor Accident Claims Tribunal cum V Addl. District Judge, Rayachoty, pending disposal of the above MACMA and pass

Counsel for the Appellant:

1.ARAVALA RAMA RAO(SC FOR APSRTC KKAC)

Counsel for the Respondent(S):

1.PAWAN KUMAR MALAPATI

The Court made the following:

HON'BLE SRI JUSTICE T.C.D. SEKHAR

MACMA No.22 of 2021

JUDGMENT:-

Aggrieved by the order dated 06.03.2020 in M.V.O.P.No.120 of 2016 on the file of Motor Accidents Claims Tribunal-cum-V Additional District Judge, Rayachoty, the present appeal is preferred by APSRTC.

2. For the sake of convenience, the parties are referred to as they were referred before the Tribunal. The petitioners filed the claim petition under Section 166 of Motor Vehicles Act and the Rules made there under, claiming compensation of Rs.25,00,000/- on account of death of Shaik Muhebullu alias Muheeb (husband of petitioner No.1, father of petitioner Nos.2 and 3 and son of petitioner Nos.4 and 5) in the accident that occurred on 08.07.2016 in which the bus bearing registration No.AP 28 Z 3305 belonging to the appellant was involved.

3. It is the case of the petitioner that on 08.07.2016 the deceased was travelling on motor cycle bearing registration No.AP04-AH-1803 as a pillion rider, driven by his friend Shaik Khadar Valli. When they reached Madanapalli ring road junction, the offending bus came in opposite direction in rash and negligent manner at high speed and dashed the motor cycle. As a result of which, deceased and his friend fell down on the road and sustained injuries. They were shifted to Government Hospital, Rayachoty where Doctors declared that the deceased was brought dead. A case in Cr.No.239 of 2016

was registered against the driver of the offending bus on the file of Rayachoty U/G police station. It is the further case of the petitioner that the deceased was aged 27 years and he was hale and healthy as on the date of the accident. It was further stated that the deceased was working as car driver since 2007 in Kuwait having valid and effective driving licence issued by the Government of Kuwait and was getting Rs.25,000/- per month. It was further contended that the deceased was contributing his salary to the petitioners. In view of the sudden demise of the deceased, the petitioners lost their dependency and therefore they approached the Tribunal seeking compensation of Rs.25,00,000/-.

4. Respondent No.2/ driver of the offending bus remained ex-parte. The respondent No.1 filed counter-affidavit by disputing the contents of the claim petition. It was contended that there was no negligence on the part of the respondent No.1/ driver of the offending vehicle, and disputed the age of the deceased and contended that the compensation claimed by the petitioners was excessive. It was further contended that the rider of the motor vehicle had no driving licence and the claim petition is bad for non-joinder of necessary parties i.e., owner and the insurer of the motor cycle bearing registration No.AP04-AH-1803 were not made as party respondents to the claim petition. With the above pleadings, the respondent No.1 prayed to dismiss the claim petition.

5. To substantiate the claim, the petitioners have examined one Shaik Basha as PW-1 and got marked documentary evidence in exhibits A1 to A10.

On the other hand the respondents neither adduced any oral evidence nor marked any documentary evidence. After hearing the parties and perusing the material available on record, the Tribunal by order under challenge awarded compensation of Rs.15,69,400/- together with interest at 7.5% per annum from the date of petition till the date of realisation to be paid by the respondent No.1/ appellant.

6. Aggrieved by the same, the present appeal is filed.

Heard learned counsel for the appellant and counsel appearing for the respondent Nos.1 to 5/ claimants. Despite service of notice, there is no appearance on respondent No.6.

7. Perused the record.

The counsel for the appellant would submit that the accident occurred due to the rash and negligent driving of the rider of the motor cycle on which the deceased was travelling as pillion rider. In order to prove that there was negligence on the part of the rider of the motor cycle, the respondent No.1/ appellant neither adduced any oral evidence nor filed any documentary evidence. On the contrary, the petitioners have filed copies of F.I.R and charge sheet which were marked as exhibit A1 and A4. A perusal of the contents of the above documents would go to show that the accident was occurred due to the negligence of the offending bus driven by the respondent No.2. In the absence of any material available on record to disprove the same,

the contention of the appellant cannot be countenanced and the same is hereby rejected.

8. Since the appellant has failed to prove the negligence on the part of the rider of the motor cycle, the question of making the owner or the insurance company of the motor cycle does not arise and the same is not fatal to the case. Therefore, the said contention is also rejected and the same is answered in favor of the petitioners.

9. Though the counsel for the appellant would contend that the compensation awarded by the Tribunal is excessive, nothing is placed on record to show that the deceased was not driver by avocation as on the date of the accident. On the contrary, the petitioners have filed a copy of the driving licence issued by the Government of Kuwait to show that the deceased was driver by avocation. The Tribunal while dealing with this issue, given the finding that the petitioners have failed to prove that the deceased was drawing an amount of Rs.25,000/- per month. In this regard, it is pertinent to note that the petitioner is a citizen of India. Further it is not in dispute that the deceased was issued driving licence which was marked as exhibit A8. Despite filing of ample evidence on record to show that the deceased was driver by avocation, the Tribunal disbelieved the same, by stating that the petitioners have not filed any documentary evidence to show that he was drawing an amount of Rs.25,000/-. Therefore, the finding of the Tribunal in this regard is liable to be set aside. Further, the Tribunal erred in fixing the income of the deceased as Rs.6,000/- inasmuch as, no prudent man will go to abroad to work there as

driver for such a paltry amount of Rs.6000/- per month. Taking into consideration of the facts of the case, it can be held that, the deceased was earning more than Rs.6,000/- per month.

10. Apart from the same, the deceased alone was earning member of the family and was contributing his income to the petitioners. Despite the evidence of PW-1 and exhibit A8 filed by the petitioners, for the reasons best known, the Tribunal, disbelieved the same, without recording any reasons. In the circumstances, the income of the deceased is notionally fixed as Rs.12,000/- per month and the same is computed as under:

Description of the head	Amount entitled in Rupees
Net Annual Income	Rs.12,000 x 12 = Rs.1,44,000/-
Future prospects (at the age of 27 years)	Rs.57,600/- (i.e., 40% of the income)
Total income	Rs.2,01,600/-
Deduction towards personal expenditure (i.e., 1/4 th)	Rs.50,400/-
Total annual loss of dependency	Rs.1,51,200/-
Multiplier of 17 for the age 27 years	Rs.25,70,400/- (1,51,200 x 17)
Conventional heads	
1.Loss of consortium (5 claimants)	Rs.2,00,000/- (40,000 x 5)
2. loss of estate	Rs.15,000/-
3. Future expenses	Rs.15,000/-
Total Compensation	Rs.28,00,400/-

11. Though, the claimants have not filed separate appeal seeking to enhance the compensation, it is the duty of the Court to see that just compensation is paid to the victim/ legal heirs especially when the claim is made under beneficial legislation. Further, the Hon'ble Apex Court in the case

of *Ramla and others vs. National Insurance Company Limited and others*¹ affirmed the said view. Therefore, by placing reliance on the said judgment, the compensation is enhanced.

12. Taking into consideration of the facts and circumstances of the case, the amount of compensation is enhanced from 15,69,400/- to 28,00,400/- together with interest at 7.5% per annum. For the foregoing reasons the appeal filed by the APSRTC is dismissed. However, the appellant is directed to pay the enhanced compensation of Rs.28,00,400/- (Rupees Twenty Eight Lakhs Four Hundred Only) together with interest at 7.5% per annum from the date of petition till the date of realization within a period of two months from the receipt of copy of this order.

For the reasons recorded supra, the appeal is **dismissed**. There shall be no order as to costs.

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

JUSTICE T.C.D. SEKHAR

06.04.2026
JLSR

¹ (2019) 2 SCC 192

THE HONOURABLE SRI JUSTICE T.C.D. SEKHAR

MACMA.No: 22 of 2021

Date: 06.04.2026

JLSR