



IN THE HIGH COURT OF ANDHRA PRADESH

AT AMARAVATI

[3505]

(Special Original Jurisdiction)

FRIDAY, THE 31st DAY OF JULY 2026

PRESENT

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO:
186/2019

Between:

- 1.APSRTC, REP. BY ITS DEPOT MANAGER
PARVATHIPURAM DEPOT, VIZIANAGARAM DISTRICT
- 2.APSRTC, REP. BY ITS VICE CHAIRMAN AND
MANAGING DIRECTOR PUNDIT NEHRU BUS STATION,
RTC HOUSE VIJAYAWADA

...APPELLANT(S)

AND

- 1.KOTTAPALLI PADMA, W/O LATE VENKATA RAMANA
AGED ABOUT 32 YEARS, RESIDENT OF KOTIPALLI
VILLAGE BADANGI MANDAL, VIZIANAGARAM DISTRICT
- 2.KOTTAPALLI LAXMANA RAO, S/O LATE VENKELTA
RAMANA AGED ABOUT 13 YEARS, RESIDENT OF
KOTIPALLI VILLAGE BADANGI MANDAL,
VIZIANAGARAM DISTRICT
- 3.KOTTAPALLI RAMA DEVI, D/O LATE VENKATA RAMANA
AGED ABOUT 12 YEARS, RESIDENT OF KOTIPALLI
VILLAGE BADANGI MANDAL, VIZIANAGARAM DISTRICT
RESPONDENTS 2 AND 3 BEING MINORS
REPRESENTED BY MOTHER AND NATURAL GUARDIAN
1ST RESPONDENT

4.DHANDA RAMU, S/O BUTCHAYYA AGED ABOUT 57 YEARS, RESIDENT OF SANGA STREET, BOBBILI VIZIANAGARAM DISTRICT

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Court to allow the appeal by setting aside the Judgment and Decree passed by the Motor Accidents Claims Tribunal-cum- Principal District Judge, Vizianagaram passed in M.V.O.P No. 375 OF 2017 dated 25.10.2018 and pass

IA NO: 1 OF 2019

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 the 35 days in filing the appeal against the decree and judgment passed by Motor Accidents Claims Tribunal-cum-Principal District Judge, Vizianagaram passed in MVOP.No. 375 of 2017 dated 25.10.2018 and to pass

IA NO: 2 OF 2019

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 passed by the Motor Accidents Claims Tribunal-cum-Principal District Judge, Vizianagaram passed in M.V.O.P.No. 375 of 2017 dated 25.10.2018 pending disposal of the above M.A.CM.A.No. 2019 and pass

Counsel for the Appellant(S):

1.K SRINIVASA PRASAD SC For APSRTC

Counsel for the Respondent(S):

1.

The Court made the following:

JUDGMENT:-

1. The present appeal is filed by the A.P.S.R.T.C, questioning the order dated 25.10.2018 in M.V.O.P.No.375 of 2017 on the file of the Motor Accident Claims Tribunal-Cum-Principal District Judge, Vizianagaram.
2. For the sake of convenience, the parties are referred to as they were referred before the Tribunal.
3. The petitioners filed M.V.O.P.No.375 of 2017 under Section 166 of the Motor Vehicles Act read with Rules made there under, seeking to pay compensation of Rs.13,50,000/- on account of the death of Kottapalli Venkata Ramana who died in the accident that occurred on 27.12.2016 in which the bus belonging to A.P.S.R.T.C, was involved. The 1st petitioner is the wife of the deceased, petitioner Nos.2 and 3 are the children and 4th petitioner is the mother of the deceased.
4. It is the case of the petitioners that on 27.12.2016, the deceased after completing his work was proceeding towards RTC complex, Gajapathinagaram by walk. The offending bus, driven by its driver/1st respondent came in opposite direction at high speed and dashed the deceased, thereby the deceased

sustained bleeding injuries on his head apart from injuries on his vital parts of the body. Immediately, he was shifted to Government Hospital, Gajapathinagaram from there to Government Hospital, Vizianagaram. While he was undergoing treatment, he succumbed to injuries. Postmortem was conducted, later the dead body was handed over to the petitioners. It was further case of the petitioners that the deceased was hale and healthy and used to earn Rs.400/- per day by doing Carpentry work. It was further averred that a case in Crime No.151 of 2016 under Section 304-A IPC was registered against the 1st respondent driver of the offending bus. In view of the sudden demise of the deceased, the petitioners approached the Tribunal seeking to pay compensation, as they lost the only source of income.

5. The 1st respondent/driver of the offending bus remained ex parte.

6. The 3rd respondent filed counter affidavit and the same was adopted by the 2nd respondent. It was contended that there was no negligence on the part of the 1st respondent as he was driving the bus at normal speed. It was further stated that the deceased in a confused state of mind, suddenly crossed the

road, thereby the mud-guard of the bus hit the deceased and he fell on the road and sustained injuries. Inter-alia, it was denied the age, income, avocation and injuries mentioned in the claim petition. It was further contended that as there was no negligence on the part of the 1st respondent driver, the respondents prayed to dismiss the claim petition. In order to substantiate the case of the petitioners, the wife of the deceased was examined as P.W.1. One, Sri Nadikatla Venkata Rao, eye witness to the accident was examined as P.W.2. Apart from the same, they have also got marked documents in Exs.A.1 to A5. On the other hand, the respondents neither adduced oral evidence or marked documentary evidence. Considering the pleadings, oral and documentary evidence, the Tribunal by an order under challenge partly allowed, the claim petition by awarding an amount of Rs.7,90,000/- together with interest @ 9% p.a., from the date of petition till the date of payment by fastening liability on respondent Nos.1 to 3. Aggrieved by the same, the present appeal is preferred.

7. Heard Sri K.Srinivas Rao, learned Standing Counsel appearing for the appellants.

8. Despite of service of notice on respondent Nos.1 to 4, there is no appearance for them. As the appeal is pending since 2019, this Court proceeds with the hearing of the same.

9. The learned Standing Counsel for the appellants would strenuously contend that the accident was occurred due to the negligence of the deceased himself in as much as he entered into the road in a confused state of mind and thereby the mud-guard of the bus hit the deceased and he fell down on the road. In order to substantiate the contention of the counsel for the appellants, as observed supra, the appellants/respondents neither adduced any oral evidence nor produced any documentary evidence.

10. On the other hand, the petitioners have examined one Nadikatla Venkata Rao, eye witness to the accident as P.W.2. A perusal of the evidence of P.W.2 would establish that the accident was occurred due to the negligence of the 1st respondent driver of the offending bus. Further, the petitioners have also filed copies of FIR and charge sheet which were marked in Exs.A.1 and A.4 respectively. A perusal of the contents of the same would go to show that the accident was occurred due to the negligence of the 1st respondent driver of the

offending bus. In such circumstances, the contention of the counsel for the appellant cannot be countenance and the same is liable to be rejected and the findings recorded by the Tribunal do not warrant interference by this Court. Accordingly, their issue is answered in favour of the claimants and against the appellants.

11. Coming to the quantum of compensation, it was the specific case of the petitioners that the deceased was Carpenter by avocation. Further, they have categorically averred in the claim petition that he used to earn Rs.400/- per day. Further, the wife of the deceased was examined as P.W.1 who deposed in tune with the averments made in the claim petition. Except denying in the contents of the claim petition, the respondents have not placed anything on record to disprove the contention of the petitioners.

12. Further, the Hon'ble Supreme Court in the case of ***Parminder Singh vs. New India Company Ltd. and others***¹ had held that once the evidence is let in specifically deposing with regard to the income of the deceased, the same has to be taken into consideration while fixing the income of the deceased. A perusal of the order under challenge, it is clear that the Tribunal

¹ (2019) 7 SCC 217

after taking into consideration of the evidence of P.W.1 had rightly fixed the income of the deceased as Rs.400/- per day.

13. Though, the learned counsel for the appellants would contend that the income fixed by the Tribunal was excessive, as observed supra, nothing is placed on record to disprove the same. In the circumstances, this Court does not find any merit in the appeal in as much as after taking into consideration the totality of the facts and circumstances of the case, the Tribunal had fixed the income of the deceased as Rs.400/- per day and accordingly, awarded just compensation.

14. Viewed from the any angle, this Court does not find any merit in the present appeal.

15. Accordingly, the Appeal is dismissed. There shall be no order as to costs.

As a sequel, all pending miscellaneous petitions, if any, shall stand closed.

JUSTICE T.C.D. SEKHAR

Dt.31.07.2026
SR