



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

[3333]

MONDAY, THE NINTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 48/2023

Between:

1.M/S. THE ORIENTAL INSURANCE COMPANY LTD.,, REP.BY ITS
DIVISIONAL MANAGER, NEAR VINAYAKA THEATRE, ELURU
ROAD, VIJAYAWADA

...APPELLANT

AND

1.BAVISETTY VEERA VENKATEWARA RAO, S/O LATE TATA RAO,
AGED 25 YEARS, 3-76, GANDHAMVARI STREET, TADERU
VILLAGE, BHIMAVARAM MANDAL, WEST GODAVARI DISTRICT

2.BAVISETTY SUBRAHMANYAM, S/O LATE TATA RAO, AGED 23
YEARS, 3-76, GANDHAMVARI STREET, TADERU VILLAGE,
BHIMAVARAM MANDAL, WEST GODAVARI DISTRICT.

3.BAVISETTY RAMANJANEYULU, S/O LATE TATA RAO, AGED 21
YEARS, 3-76, GANDHAMVARI STREET, TADERU VILLAGE,
BHIMAVARAM MANDAL, WEST GODAVARI DISTRICT.

4.NARGNA VENKATA DURGA PRASAD, S/O VENKATESWARLU,
AGED 27 YEARS, DRIVER, R/O. RAMARAJULANKA VILLAGE,
MALKIPURAM MANDAL, EAST GODAVARI DISTRICT.

5.BORUSU UMA MAHESWARA RAO, S/O. VENKATA BRAHMA
NANDAM, HINDU, MALE, OWNER OF TRACTOR AND TRAILER,
R/O. RAMARAJULANKA VILLAGE, MALKIPURAM MANDAL, EAST
GODAVARI DISTRICT.

...RESPONDENT(S):

Appeal filed under Order 41 of CPC praying that the High court may be pleased to set aside the decree and Judgment passed by the Honourable Motor Accidents Claims Tribunal-Cum III Additional District Judge, Bhimavaram, West Godavari District in MVOP No. 60 OF 2018, dt27.10.2022, by allowing this appeal with costs throughout and pass

IA NO: 1 OF 2023

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 stay of all further proceedings in pursuance of the order and decree dt.27.10.2022 passed in MVOP No.60/2018 on the file of Motor Accident Claims Tribunal cum III Additional District Judge, Bhimavaram, West Godavari District and pass

IA NO: 2 OF 2023

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 permit the withdraw deposited amount in M.A.C.M.A.No.48 of 2023 in M.V.O.P No.60 of 2018 on the file of the Motor Accidents Claims Tribunal-Cum- III Additional District & Sessions Judge at Bhimavaram and pass

Counsel for the Appellant:

1.KRISHNANAND VADAKATTU

Counsel for the Respondent(S):

1.CHAKRADHARA RAJA Y

2.G R SUDHAKAR

The Court made the following:

JUDGMENT:

The Oriental Insurance Company Ltd., filed the present appeal challenging the award passed in M.V.O.P.No.60 of 2018 on the file of the Court of the Motor Accidents Claims Tribunal-cum-III Additional District & Sessions Judge, Bhimavaram, whereby and whereunder, the Tribunal granted compensation of Rs.11,90,000/-(Rupees Eleven Lakhs ninety thousand only) to the petitioner Nos.1 to 3 herein as against the claim of Rs.12,00,000/-, on account of the death of Bavisetti Mangatayaru.

2. For the sake of convenience, the parties are referred to as they are arrayed before the Tribunal.
3. The case of the petitioners is briefly as follows:

On 17.06.2017, the deceased Bavisetti Mangatayaru along with her husband Bavisetti Tatarao started from their house to attend marriage function of their relatives on their TVS XL motorcycle bearing No.AP 37 CK 6712 and the deceased was a pillion rider. When they reached underneath Dindi bridge of Dindi village at about 12.15pm, the 1st respondent being the driver of Tractor and Tractor bearing No.AP 37 AQ 4603 and AP 05 TX 5273 proceeded towards Sivakodu drove his vehicle with a rash and negligent manner without blowing horn and

dashed the motorcycle of the deceased from behind. As a result, the deceased along with her husband fell on the road and sustained grievous injuries and the deceased died on the spot. The husband of the deceased also died while undergoing treatment. The cause of accident is only due to the rash and negligent driving of 1st respondent. Prior to the date of accident, the deceased was eking her livelihood by tailoring earning monthly income of Rs.15,000/-. Therefore, the petitioners sought compensation of Rs.12,00,000/- from the respondents.

4. Respondent Nos.1 to 3 filed their written statements separately wherein they denied each and every allegation of the petition and specifically contended that respondent No.1 was not the driver of the offending vehicle and Malkipuram Police registered a false case against respondent No.1 and it was ended in acquittal. The respondent No.2 contended that his tractor and trailer are not the offending vehicles and he is no way concerned about the accident. The respondent No.3 contended that the accident occurred due to the sole negligence of the rider of TVS XL Motorcycle bearing No.AP 37 CK 6712 and he drove the said vehicle rashly and negligently without observing plying vehicles and came into the way of alleged tractor and trailer and applied sudden brakes and he lost control over his TVS XL motorcycle and his rash driving contributed to this alleged accident. The petitioner Nos.1 to 3 are

major sons of deceased and they are doing coolie work having sufficient means of livelihood, and they are not at all dependents of deceased. Therefore the claim of the petitioners towards loss of dependency is liable to be dismissed. Hence, they are not liable to pay the compensation either jointly or severally. Therefore they prayed the court to dismiss the petition with costs.

5. Basing on the pleadings, the Tribunal framed the following issues for trial:

“1. Whether the 1st respondent drove tractor and trailer bearing No.AP 37 AQ 4603 and AP 05 TX 5273 in a rash or negligent manner at the place and time of accident on 17.06.2017 in Bavisetti Mangatayaru died?

2. Whether the petitioners are entitled to get compensation from respondents?

3. If so, to how much amount?

4. To what relief?”

6. On behalf of the claimants, the 1st petitioner was examined as PW1 and got marked Exs.A1 to A5. Apart from him, one independent witness was examined as PW2. On behalf of 3rd respondent, their Assistant was examined as RW1 and got marked Ex.B1 & B2. The Senior Assistant in Regional Transport Office, Bhimavaram was examined as RW2 and got marked Ex.X1 & X2. The 2nd respondent was examined as RW3 and no documents marked on his behalf.

7. After hearing both parties and after considering the oral and documentary evidence on record, the Tribunal partly allowed the claim petition against respondent No.3, awarding compensation of Rs.11,90,000/-(Rupees Eleven lakhs ninety thousand only) with subsequent interest @ 9% per annum from the date of petition to the date of payment to the credit of this matter within 30 days from the date of Order.

8. Aggrieved by the said award, the respondent No.3 preferred this appeal contending that the Tribunal failed to consider that the driver of Tractor and Trailor did not hold proper and valid driving license at the time of accident and that the compensation and the rate of interest at 9% per annum, awarded by the Tribunal is exorbitant and excessive. Therefore, prayed to allow the appeal.

9. On the other hand, learned counsel for the claimants/ respondent Nos.1 to 3 herein has supported the impugned award and prayed to dismiss the appeal.

10. Now the point for consideration is:

Whether the order of the Tribunal needs any interference?

POINT:

11. The respondents – claimants to prove that the accident occurred due to rash and negligent driving of the driver of the crime vehicle, claimant No.1 got examined himself as PW1 and got marked Exs.A1 to A5, the claimants got examined PW2, who is an eyewitness to the said accident. PW2 categorically deposed that on 17.06.2017 himself and the deceased B.Tatarao and B.Mangatayaru while proceeding towards Ramaraju Lanka to attend marriage of their relatives, at about 12.15 p.m. when they reached near the Dindi Bridge, Dindi Village, Malkipuram Mandal, one driver of Tractor and Trailer Bearing No.AP 37 AQ 4603 and AP 05 TX 5273 drove his vehicle in a rash and negligent manner and dashed TVS XL motorcycle bearing No.AP 37 CK 6712 from behind. As a result of which, the rider and pillion rider travelling on the TVS XL motorcycle fell on the road. The pillion rider died on the spot and the rider of the TVS XL sustained injuries and he was immediately shifted to hospital. The cause of accident is only due to the rash and negligent driving of respondent No.1.

12. However, on the ground raised by the appellant that the driver of the Tractor and Trailer did not hold valid driving license, it can be observed that RW2, who was examined on behalf of respondents, categorically admitted in the cross-examination that driving license of

respondent No.1 was in force and in the absence of any cogent evidence to establish that the offending vehicle was not holding valid driving license, the Tribunal answered issue No.1 in favour of the claimant.

12. So far as the quantum of compensation is concerned, as the deceased was working as tailor and earned monthly income as on the date of accident and since no document of proof is filed, hence the Tribunal considered to fix the deceased income notionally at Rs.8,000/- per month under the minimum wages and annual income would be Rs.96,000/-(Rs.8,000/- x 12). As the age of the deceased was 45 years as on the date of accident, the Tribunal below rightly applied the multiplier as '14' in view of the law laid down by the Apex Court in **Sarla Varma vs. Delhi Transport Corporation Ltd**¹. By deducting 1/3rd annual income (Rs.96,000/- / 3 = Rs.32,000/-) towards personal and living expenses, the actual annual contribution of the deceased to her family members would be Rs.64,000/- ((Rs.96,000/- - Rs.32,000/-) and the future prospectus for self-employed person between age group of 40 to 50 years can be calculated @ 25% on the annual income of the deceased, it would come to Rs.16,000/- (Rs.64,000/- x 25%) when added to annual income it comes to Rs.80,000/-(Rs.64,000/- +

¹ 2009 ACJ 1298

Rs.16,000/-). After applying the multiplier '14', it would come to Rs.11,20,000/-(Rs.80,000/- x 14). In addition to the above, the Tribunal also awarded Rs.15,000/- under the head of loss of estate, Rs.15,000/- under the head of funeral expenses and Rs.40,000/- under the head of consortium. In total, the Tribunal below awarded Rs.11,90,000/- (Rs.11,20,000/- + Rs.15,000/- + Rs.15,000/- + Rs.40,000/-) to the claimants. Thus, no interference is required with the said finding of the Tribunal.

13. In view of the above reasons, this Court finds no error in the said finding of the Tribunal, warranting interference with the impugned award.

14. In the result, the Motor Accident Civil Miscellaneous appeal is dismissed. There shall be no order as to costs.

Interim orders granted earlier if any, stand vacated.

Pending miscellaneous applications, if any, shall stand closed.

JUSTICE V.SUJATHA

Date: 09.02.2026
PBS