



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

[3505]

THURSDAY, THE TWELFTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

**MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO:
210/2020**

Between:

1. ANDHRA PRADESH STATE ROAD TRANSPORT
CORPORATION, REP. BY ITS MANAGING DIRECTOR,
MUSHEERABAD, HYDERABAD. (NOW AT
VIJAYAWADA)

...APPELLANT

AND

1. MUSALA DURGA DEVI, W/O. LATE SAMBASIVARAO,
HINDU, AGED 30 YEARS, R/O. KAZA VILLAGE,
MANGALAGIRI MANDAL, GUNTUR DISTRICT.

2. MUSALA VENKATA SRINIVAS RAO, S/O. LATE
SAMABSIVARAO, AGED 22 YEARS,

3. MUSALA MOUNIKA, D/O. LATE SAMBASIVARAO, AGED
20 YEARS, (RR 2, 3 - DECLARED AS MAJORS AND R1
DISCHARGED AS THEIR GUARDIAN VIDE C.O.DT
19.03.2024 IN IA 2 AND 3/2024.)

4.MUSALA JAYAMMA, W/O.LATE VENKATESWARLU,
HINDU, AGED 59 YEARS, R/O.KAZA VILLAGE,
MANGALAGIRI MANDAL, GUNTUR DISTRICT.

5.ANNADASU SRINIVASA RAO, S/O.VISWASWARA. RAO,
R/O.VENNADEVI VILLAGE, SATTENAPALLI, GUNTUR
DISTRICT. (THE 5TH RESPONDENT HEREIN IS NOT
NECESSARY PARTIES)

...RESPONDENT(S):

Counsel for the Appellant:

1.ARAVALA RAMA RAO(SC FOR APSRTC KKAC)

Counsel for the Respondent(S):

1.SIVA SANKARA RAO BORRA

2.KOMMAREDDY DIVAKARA REDDY

The Court made the following:

JUDGMENT:-

1. The present appeal is filed by A.P.S.R.T.C, aggrieved by order dated 15.02.2019 in M.V.O.P.No.107 of 2015 on the file of the Motor Accident Claims Tribunal-Cum-III Additional District Judge, Guntur.
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.107 of 2015 under Section 167 of the Motor Vehicles Act and the Rules made there under claiming compensation of Rs.20,00,000/- together with interest @ 18% p.a. on account of death of the husband of the 1st petitioner (Musala Sambasiva Rao), in the accident that was occurred on 02.11.2014 in which the offending RTC bus bearing Registration No.AP 07 Z 0053 was involved.
4. It is the case of the petitioners that the deceased was travelling on his motor cycle bearing registration No.AP 07 AQ 4294 and when he reached Dwaraka hotel, Mangalagiri, the 2nd respondent/driver of the offending bus, drove the bus in rash and negligent manner and dashed the deceased, due to which the

deceased fell down and sustained grievous injuries. Immediately, he was shifted to Manipal hospital, Tadepalli where he underwent treatment as an inpatient. It is further case of the petitioners that three surgeries were conducted in Manipal hospital and subsequently, he succumbed to injuries.

5. In this connection, a case in Cr.No.330 of 2014 was registered under Section 337 IPC against the 2nd respondent. In view of the death of the deceased, the petitioners filed the above claim petition, seeking compensation of Rs.20,00,000/-.

6. The 1st respondent filed counter affidavit and the same was adopted by the 2nd respondent. It is the case of the 1st respondent that the deceased while overtaking the bus, driven the motor cycle in rash and negligent manner and lost control over the motor cycle and fell down, thereby sustained bleeding injuries. It was further contention of the 1st respondent that the accident was occurred due to the negligence of the deceased and there was no negligence on the part of the 2nd respondent driver. It was further contended that the police did not investigate the case properly and in order to fasten liability on the respondents, charge sheet was filed. It was further contended

that there was no valid driving license to the deceased and the motor cycle was not in fit condition. It was further contended that the claim petition is liable to be dismissed as the petitioners did not implead the insurer of the motor cycle of the deceased and therefore, the claim petition is liable to be dismissed for non-joinder of proper and necessary party. With the above contentions, the 2nd respondent prayed to dismiss the claim petition.

7. In order to prove the case of the petitioners, they have examined P.Ws.1, 2 and 3 and marked Exs.A1 to A8, Exs.X1 to X4 were marked through P.W.3.

8. On the other hand, the respondents have not examined any witness nor marked any documentary evidence. Considering the oral and documentary evidence put forth by the petitioners, the tribunal by order under challenge awarded compensation of Rs.16,01,375/- together with interest @ 7.5% p.a. Questioning the said order, the present appeal is filed.

9. Heard the learned counsel for the appellant and the learned counsel for the respondents.

10. Perused the record.

11. The present appeal is filed on various grounds. It is the contention of the counsel for the appellant that the accident was occurred due to rash and negligent driving of the deceased himself and there was no negligence on the part of the 1st respondent. In order to prove the same, the respondents did not examine any witness on its behalf. On the other hand, the petitioners examined one Sri M.Leela Venkata Naidu as P.W.2, who was the eye witness to the accident. It is evident that he was shown as L.W.2 in the charge sheet that was marked as Ex.A2. Further P.W.2 has deposed that the accident was occurred due to the rash and negligent driving of the 2nd respondent driver. Apart from the same, the petitioners have also marked copies of FIR and charge sheet in Exs.A.1 and A2. A perusal of the said documents would reveal that the accident was occurred due to the rash and negligent driving of the 2nd respondent. Relying on the oral and documentary evidence, the tribunal had held that the accident was occurred on account of the negligence of the 2nd respondent. As noted supra, the respondents did not produce any evidence to substantiate their contention. In the absence of any evidence on record, the

contention of the respondents cannot be believed and accordingly the same is rejected.

12. It was further contended that, the Insurance Company of the motor cycle of the deceased was not impleaded as party respondent and therefore, the claim petition is bad for non-joinder of property party. In this regard, it is pertaining to note that though the respondents have pleaded that there is negligence on the part of the deceased, as discussed above, the respondents failed to prove the same, unless the respondents prove that the accident was occurred due to the negligence of the deceased, question of impleading the insurer of the motor cycle does not arise. Accordingly, the said contention of the appellant is also rejected.

13. The respondents have also contended that the compensation awarded by the tribunal is excessive. On perusal of the evidence of P.W.1 the wife of the deceased, it is clear that the deceased was owner of land admeasuring an extent of Ac.2.00 cents and cultivating the same. Apart from the said land, the deceased was also cultivating the land admeasuring an extent of Ac.3.50 cents by taking same on lease from one

Sri A.Srinivasarao and earning an amount of Rs.20,000/- per month. To substantiate the same, the petitioners have filed lease deed dated 10.04.2010 which was marked as Ex.A.6.

14. On perusal of the order under challenge and it is evident that the said document was not taken into consideration by the Tribunal as the same was unregistered and the petitioners failed to prove the same by examining the owner of the land Sri A.Srinivasarao. On over all consideration of the case, the tribunal had taken Rs.4,500/- as income of the deceased towards the supervisory charges in respect of the landed property above mentioned. By taking into consideration of the age of the petitioner, the tribunal had arrived at Rs.16,01,375/- as compensation together with interest @ 7.5% p.a. Though the respondents have not filed appeal, during the course of hearing, the learned counsel appearing for the respondents would submit that while awarding compensation, the tribunal had not granted consortium to respondent Nos.2 to 4 as per the judgment rendered by the Hon'ble Apex Court in the case of ***Magma General Insurance Company Limited Vs. Nanu Ram alias***

Chuhru Ram & others ¹ to include spousal, parental and filial consortium.

15. On perusal of the order under challenge, it is clear that the tribunal had awarded consortium to the 1st petitioner, wife of the deceased and no consortium was granted in favour of respondent Nos.2 to 4 the children and the mother of the deceased. In such circumstances, this Court deems it appropriate to award consortium @ Rs.40,000/- per head in favour of respondent Nos.2 to 4. Accordingly, the claim petitioners are entitled to receive compensation of Rs.17,21,375/-

16. For the foregoing reasons, this Court does not find any merit in the present appeal and accordingly, the same is dismissed. However the claim petitioners are entitled to receive compensation of Rs.17,21,375/- together with interest @ 7.5% per annum. No order as to costs.

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

JUSTICE T.C.D. SEKHAR

Dt.12.02.2026
SR

¹ (2018) 18 SCC 130