



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

[3333]

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

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 126/2022

Between:

1.THE ORIENTAL INSURANCE CO LTD, REPRESENTED BY ITS
DIVISIONAL MANAGER, 3RD PARTY HUB , LABBIPET ,M.G.ROAD,
VIJAYAWADA

...APPELLANT

AND

1.SOLASA SUJATHA, W/O NAGAMALLESWARA RAO,40
YEARS,HOTEL BUSINESS, BOTH ARE RESTIDENTS OF
THIMMAPURA.M,PRATHIPADU MA.NDAL, GUNTUR DISTRICT.

2.K MALLESWARA RAO, S/O SRIRAMAMURTY, APPAPURAM,
NADENDLA MA.NDAL, GUNTUR DISTRICT .

3.VADLA YADAGIRI, S/O SIDCLAIAH D.NO 38-87/66/1,AMBEDKAR
NAGAR , AN COLONY , SECUNDERABAD .

4.SYED MAHABOOB BEE, W/O MEERA, NEAR MASJID
,GANAPAVARAM NADENDLA MANDAL GUNTUR DISTRICT.

...RESPONDENT(S):

Appeal filed under Order 41 of CPC praying that the Highcourt may be
pleased toThe order passed in M.V.O.P. No. 675/2017,dated 06.12.2019 on
the file of the Chairman, Motor Accident Claims Tribunal - cum - III Additional
District Judge, Guntur.

IA NO: 1 OF 2022

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 other proceedings in the above decree and judgment dt. 06-12-2019 passed in M.V.O.P. No. 675/2017 on the file of THE CHAIRMAN, MOTOR ACCIDENT CLAIMS TRIBUNAL - CUM- III ADDL DISTRICT JUDGE , GUNTUR and pass

Counsel for the Appellant:

1.V DURGA

Counsel for the Respondent(S):

1.A RAJENDRA BABU

The Court made the following:

JUDGMENT:

The Insurance Company filed the present appeal challenging the order and decree 06.12.2019 in M.V.O.P.No.675 of 2017 on the file of the Court of the Motor Accidents Claims Tribunal-cum-III Additional District Judge, Guntur, whereby and whereunder the Tribunal granted compensation of Rs.1,21,200/- (Rupees One Lakh Twenty One Thousand Two Hundred only) to the petitioner/respondent No.1 herein, as against the claim of Rs.4,00,000/-, for the injuries sustained by her in a car accident that occurred on 15.02.2017.

02. For the purpose of convenience, the parties will be referred to as they are arrayed before the Tribunal.

03. The case of the petitioner is that she is resident of Thimmapuram, Guntur District. On 14.02.2017, she and her mother were travelling on a car bearing No.AP 09 AT 3242, belonging to respondent Nos.2 and 3, from Thimmapuram to Tirupathi. When the car reached near a culver on Renigunta – Chandragiri bypass road at about 5.30 a.m., on 15.02.2017, the 1st respondent/driver drove the car in a rash and negligent manner at high speed and dashed against a roadside culvert, as a result car turned turtle. In the said accident, the petitioner sustained grievous injuries and her mother died on the spot. Basing on the report, a case in Crime No.33 of 2017 was registered by the Tiruchanur Police under Sections 304-A and 338 IPC against the driver of the car.

04. The petitioner contended that she was aged about 40 years at the time of accident and earning Rs.10,000/- per month by running a private hotel at

Tirumala spinning Mill, Thimmapuram. She suffered fractures to her leg and head and was initially treated at Government Hospital, Tirupathi and thereafter at GBR and Likitha Hospitals, Narasaraopet, where she underwent surgeries. She claimed that she incurred substantial medical expenditure, became bedridden for a considerable period and suffered permanent disability affecting her earning capacity. Hence, the petitioner sought compensation of Rs.4,00,000/- from the respondents.

05. Before the Tribunal, respondent Nos.1 to 3 remained exparte.

06. Respondent No.4/Insurance Company filed a written statement denying the allegations made by petitioner in the claim petition. It was contended that there was no rash and negligent driving on the part of the driver of the Car bearing No.AP 09 AT 3242 at the time of accident and that the accident occurred solely due to the negligence of the petitioner herself. It was further contended that the driver of the said car did not possess a valid and effective driving licence to drive the vehicle at the time of the accident and that the vehicle did not have a valid registration certificate, permit, or fitness certificate, which amounts to violation of the terms and conditions of the insurance policy. The Insurance Company also asserted that the said car was not insured with it as on the date of the accident and that there was no valid and subsisting insurance policy. The 4th respondent further contended that the petitioner had not produced any documentary evidence in support of her claim of Rs.50,000/- towards medical, conveyance, and transport expenses. It was also contended that the petitioner had not sustained any permanent disability,

that there was no loss of earning capacity, and that she was capable of performing her duties as usual. Lastly, it was contended that the compensation claimed, as well as the rate of interest sought, was excessive. Hence, the Insurance Company prayed for dismissal of the petition.

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

“1. Whether the petitioner Solasa Sujatha received injuries in the road accident occurred on 15.02.2017 Renigunta-Chhandragiri bye pass road, Tiruchanur due to rash and negligent driving of the driver of the Car bearing No.AP 09AT 3242?

2. Whether the petitioner is entitled to compensation, if so, to what amount, against whom?

3. To what relief?”

08. On behalf of the petitioner, PW1 and PW2 were examined and Exs.A1 to A5 were marked. On behalf of insurance company/respondent No.4, RW1 was examined and Ex.B1/insurance policy was marked.

09. After hearing both parties and upon consideration of the oral and documentary evidence available on record, the Tribunal partly allowed the claim petition against respondent Nos.1 to 4 and awarded compensation of Rs.1,21,200/-, payable with interest @ 7.5% per annum from the date of the petition till the date of realization, along with proportionate costs. Respondent No.1 to 4 were held jointly and severally liable to pay the compensation to the petitioner. Respondent No.4/insurance company was directed to deposit the compensation amount before the Tribunal within one month from the date of

the award and thereafter recover the same from respondents No.1 to 3. Upon such deposit, the petitioner was permitted to withdraw the entire compensation amount of Rs.1,21,200/- at once.

10. Aggrieved by the said award, the respondent No.4/insurer preferred this appeal contending that the vehicle involved in the accident is a private car and the policy did not cover the inmates of the car and the vehicle was allegedly given on hire, amounting to breach of policy conditions. Therefore, the insurer is not liable to pay compensation. It is, therefore, prayed to allow the appeal.

11. On the other hand, learned counsel for the petitioner/respondent No.1 herein has supported the impugned award and prayed to dismiss the appeal.

12. Now the point for consideration is:

Whether the order of the Tribunal needs any interference?

POINT:

13. On a perusal of the impugned award, it can be observed that though respondent No.4/insurance company filed a written statement attributing negligence on the part of the petitioner, no cogent evidence was adduced in support of the said plea. RW1, who was examined on behalf of the Insurance Company and is the Administrative Officer (Legal), did not depose anything to establish negligence on the part of the petitioner. On the other hand, RW1 admitted in his evidence that the driver drove the car in a rash and negligent manner at high speed and dashed against the roadside culvert, thereby

causing the accident. Even as per, Ex.A1 – FIR and Ex.A2 – charge sheet, coupled with the testimony of PW1, it is clear that the accident occurred solely due to the negligent driving of the driver of the offending vehicle. Therefore, the Tribunal, rightly held that the accident occurred due to the negligence of the driver and that the petitioner sustained grievous injuries therein. The said finding warrants no interference. Further, RW1 admitted that Ex.B1 policy was valid for the period from 30.06.2016 to 29.06.2017, covering the date of accident. The contention of the insurer is that the private car was used on hire, thereby amounting to a breach of the policy conditions. Even otherwise, the Tribunal held that, even assuming that the vehicle was used on hire, such a breach cannot be treated as a fundamental breach so as to absolve the insurer of its statutory liability towards third parties. Therefore, the Tribunal was justified in directing the Insurance Company to pay the compensation at the first instance and thereafter recover the same from the owner of the vehicle.

14. With regard to the quantum of compensation, PW1 deposed that she sustained multiple injuries, including fractures to the left leg and pelvis as well as a head injury. PW2, the doctor, who examined the petitioner, corroborated the said evidence and stated that the petitioner was treated as an inpatient from 21.02.2017 to 27.02.2017 and underwent surgery with implantation of rods, which were subsequently removed. Ex.A3/prescriptions and Ex.A4/medical bills for Rs.22,153/- substantiate the medical expenditure incurred by the petitioner. Since the petitioner availed the benefits under the

Arogyasri scheme, the Tribunal rightly declined the claim of Rs.50,000/- towards general medical expenses and awarded Rs.22,153/- towards the medical expenses covered under Ex.A4/medical bills. Further, the Tribunal awarded Rs.20,000/- towards expenses for removal of implants, Rs.24,000/- towards loss of income for four months (at Rs.6,000/- per month), Rs.50,000/- towards pain and suffering, and Rs.5,000/- towards special diet and transportation charges. Thus, in total, the Tribunal awarded a sum of Rs.1,21,153/-, which was rounded off to Rs.1,21,200/-, towards compensation for the injuries sustained by the petitioner in the accident. The said amount cannot be said to be excessive or on the higher side. Therefore, no interference is warranted with regard to the quantum of compensation awarded by the Tribunal.

15. In the result, the M.A.C.M.A. is dismissed, confirming the award dated 06.12.2019 passed in M.V.O.P. No.675 of 2017 by the Motor Accidents Claims Tribunal-cum-III Additional District Judge, Guntur. There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

JUSTICE V. SUJATHA

Date: 16.02.2026
KGR