



**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: 127/2022

Between:

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

...APPELLANT

AND

1.TALLAM SIVA PRASADA RAO, S/O . TATAIAH AGE 62 YEARS, R/O.
SENIOR CITIZEN RESIDENT OF THIM.MAPURAM, PRATHIPADU
MANDAL, GUNTUR DISTRICT.

2.SOLASA SUJATHA, W/O NAGAMALLESWARA RAO,40
YEARS,HOTEL BUSINESS, RESIDENT OF THIM.MAPURAM,
PRATHIPADU MANDAL, GUNTUR DISTRICT.

3.K MALLESWARA RAO, S/O SRIRAMAMURTY, APPAPURANI,
NADENDLA MANDAL, GUNTUR DISTRICT .

4.VADLA YADAGIRI, S/O SIDDAIAH D.NO 38-87/66/I,AMBEDKAR
NAGAR , AN COLONY , SECUNDERABAD

5.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 High Court may be
pleased to the order passed in M.V.O.P. No. 676/2017, 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. 676/2017 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.676 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.5,68,960/- (Rupees Five Lakhs Sixty Eight Thousand Nine Hundred Sixty only) to the petitioners/respondent Nos.1 and 2 herein, as against the claim of Rs.7,00,000/-, on account of the death of the deceased Tallam Seethavaramma 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 claimants is briefly as follows:

The 1st petitioner is the husband, the 2nd petitioner is the daughter of deceased Tallam Seethavaramma. On 14.02.2017, the 2nd petitioner and her deceased mother were proceedings from Thimmapuram to Tirupathi in the car bearing No.AP 09 AT 3242, belonging to respondent Nos.2 and 3 and when they reached near the culvert on Renigunta-Chandragiri bypass road, on 15.02.2017 at about 5.30 a.m., the 1st respondent, who was driving the car, drove the said car in a rash and negligent manner and with high speed, hit the road side culvert. As a result of which, the car turned turtle, causing severe injuries to the deceased, who died on the spot. Basing on a complaint, a case was registered in Cr.No.33 of 2017 under Sections 304-A and 338 of IPC by the Tiruchanur Police against the 1st respondent.

04. The petitioners contended before the Tribunal that the deceased was aged about 58 years at the time of accident and she was hale and healthy. She was running a private hotel at Tirumala Spinning Mill, Thimmapuram and was earning Rs.10,000/- per month, which she used to contribute to the petitioners. Therefore, the petitioners sought compensation of Rs.7,00,000/- from respondents No.1 to 4, who are the driver, owners and insurer of the crime vehicle, respectively.

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

06. Respondent No.4/Insurance Company filed its counter denying all the allegations made by the petitioners and contended that there was no rash and negligent driving on the part of the driver of the car bearing No.AP 09 AT 3242 and that the negligence was only on the part of the deceased herself. Respondent No.4 also contended that the driver of the said crime vehicle had no valid and effective driving license and that the said vehicle has no valid registration certificate, permit and fitness certificate at the time of the accident, which amounted to violation of the conditions of insurance policy. It was further contended that the crime vehicle was not insured with its company at the time of accident and that there was no valid insurance policy. It was also contended that the petitioners have not produced any documentary evidence to show that they are the legal heirs of the deceased. The compensation and interest claimed by the petitioners are excessive. Hence, it was prayed to dismiss the claim petition.

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

“1. Whether Tallam Seetharavamma, died 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 09 AT 3242?

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

3. To what relief?”

08. On behalf of the petitioners/claimants, the 2nd petitioner was examined as P.W.1 and Exs.A1 to A4 were marked. On behalf of the respondent No.4, its Administrative Officer (legal) was examined as R.W.1 and Ex.B.1 was marked.

09. After hearing both parties and considering the oral and documentary evidence on record, the Tribunal partly allowed the claim petition against respondent Nos.1 to 4, awarding compensation of Rs.5,68,960/- with proportionate costs and interest at 7.5% per annum from the date of petition till the date of decree and thereafter @ 6% per annum till payment. Respondent No.4 was directed to deposit the compensation amount with interest and costs within one month from the date of the order and thereafter recover the same from respondents No.1 to 3. The 1st petitioner was held entitled to Rs.3,68,960/- with costs and interest and the 2nd petitioner was held entitled to Rs.2,00,000/-. On such deposit, petitioners were permitted to withdraw Rs.1,00,000/- each initially, and the balance amounts of their

respective shares were directed to be deposited in any Nationalized bank as fixed deposit for a period of two years.

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 that 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 claimants/respondent Nos.1 and 2 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 deceased, 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 deceased. 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 evidence of PW1, clearly establish 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 deceased sustained fatal injuries in that accident and died on the spot. 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 the accident. The contention of the insurer is that the private car was used on hire, thereby amounting to a breach of policy conditions. Even otherwise, the Tribunal held that assuming 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. So far as the quantum of compensation is concerned, the case of the petitioners was that the deceased was earning Rs.10,000/- per month by working in a hotel. However, in the absence of any documentary evidence to substantiate the same, the Tribunal has assessed the income of the deceased at Rs.6,000/- per month, which, in the opinion of this Court, is just and proper and requires no interference. Thus, the annual income of the deceased comes to Rs.72,000/- (6,000/- X 12). Applying the relevant multiplier '9' applicable to

the age of the deceased i.e., 58 years, the loss of income comes Rs.6,48,000/- (72,000/- X 9). The Tribunal further added 10% towards future prospects, thereby arriving at Rs.7,12,800/- (6,48,000 + 10%). After deducting 30% towards personal expenses of the deceased, the loss of dependency was computed at Rs.4,98,960/- (Rs.7,12,800 – 30%), which is just and proper and in accordance with the settled principles. Further, the Tribunal awarded Rs.15,000/- towards loss of estate, Rs.15,000/- towards funeral expenses and Rs.40,000/- towards consortium. Thus, the total compensation of Rs.5,68,960/- awarded by the Tribunal is just and proper and cannot be said to be excessive or on the higher side. Therefore, the order passed by the Tribunal does not suffer from any infirmity and requires no interference in this civil miscellaneous appeal. Accordingly, the point is answered.

15. In the result, the Civil Miscellaneous Appeal is dismissed, confirming the award dated 06.12.2019 passed in M.V.O.P. No.676 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