



**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: 319/2022

Between:

1.S.K. VALI BASHA, S/O HUSSAINALAM, AGED ABOUT 39 YEARS,
MUSLIM, R/O H.NO. 1/133, LAKSHMAPURAM VILLAGE,
PAGIDYALA MANDAL, KURNOOL DISTRICT.

...APPELLANT

AND

1.THE DIOCESAN EDUCATIONS SOCIETY, REP BY ITS PRESIDENT
BISHOP ANTHONY POOLA, MAJOR, CHRISTIAN, BISHOP 039,S
HOUSE, B CAMP, KURNOOL CITY, MANDAL AND DISTRICT, AND
OWNER OF EDUCATIONAL INSTITUTION BUS BEARING NO. AP
21TW 0552.

2.THE ORIENTAL INDURANCE CO LTD, REP. BY ITS DIVISIONAL
MANAGER, 40-383, BHUPAL COMPLEX, PARK ROAD, KURNOOL
CITY.

3.T DEVANNA, S/O SESHANNA, ABOUT AGED 38 YEARS, HINDU, R/O
NOOTHANAPALLI VILLAGE, KURNOOL MANDAL, KURNOOL
DISTRICT.

...RESPONDENT(S):

Appeal filed under Order 41 of CPC praying that the Highcourt may be
pleased toAggrieved by the order of the Motor Accidents Claims Tribunal-
Cum-IV-Additional District Court, Kurnool passed in M.V.O.P.No. 406/2016
dated 10.03.2020

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 condone the delay of 164 days in representing the MACMA Petition and pass

Counsel for the Appellant:

1.KALANGI SUMALATHA

Counsel for the Respondent(S):

1.SAMBOJU BALA GOPAL

2.KANAKALA DEVI PRASANNAKUMAR

The Court made the following:

JUDGMENT:

The appellant/petitioner filed the present appeal aggrieved by the order and decree 10.03.2020 in M.V.O.P.No.406 of 2016 on the file of the Court of the Motor Accidents Claims Tribunal-cum-IV Additional District Court, Kurnool, wherein the Tribunal granted compensation of Rs.1,35,000/- (Rupees One lakh Thirty Five Thousand only) to the appellant/petitioner herein, as against the claim of Rs.6,00,000/- for the injuries sustained by the petitioner in a motorcycle accident that occurred on 04.07.2016.

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, in brief, is as follows:

On 04.07.2016 at about 5.30 p.m., while the petitioner was proceeding on his motorcycle bearing No.AP 21 AC 0794 near Nandikotkur Highway Road, Kurnool, one Educational Institution Bus (LMV) bearing No.AP 21 TW 0552, driven by respondent No.3 in a rash and negligent manner at high speed, coming on opposite direction on extreme right side from Kurnool city side and without blowing horn hit the motorcycle of the petitioner. As a result, the petitioner fell down and sustained multiple grievous injuries like fracture on right femur neck and pelvis, Multiple lacerations, puncture wound over right knee, laceration over right elbow, abrasion over right foot and contusion over left frontal bone and multiple injuries all over the body. His motorcycle was also damaged. Immediately, he was shifted to Government General Hospital,

Kurnool and treated. A case in Crime No.271 of 2016 under Section 337 IPC was registered against the driver of the crime vehicle i.e., respondent No.3 by Kurnool III Town Police Station.

04. The petitioner pleaded that he was a mason earning Rs.15,000/- per month and was hale and healthy prior to the accident. He underwent surgery on 20.07.2016 and rods were fixed to the right femur. He was discharged on 28.07.2016. He claimed to have spent Rs.50,000/- towards medical expenses and Rs.20,000/- towards repair of the motorcycle. He further pleaded that he suffered permanent disability, restriction of hip movements, limping and inability to sit or squat properly.

05. Before the Tribunal, respondent No.3 being the driver of the crime vehicle remained *ex parte*.

06. Respondent No.1 admitted ownership of the bus and that respondent No.2 was its insurer, but denied negligence and disputed the quantum of compensation.

07. Respondent No.2/Insurance Company contended that the accident occurred due to rash and negligent driving of the petitioner himself and alleged contributory negligence on his part. It was further contended that the owner and insurer of the petitioner's vehicle are necessary parties to the claim petition. The insurance company also pleaded that neither the petitioner nor respondent No.3 possessed valid and effective driving licences at the time of the accident, and that there was violation of the terms and conditions of the

insurance policy. It was specifically asserted that respondent No.1 violated the policy conditions by entrusting the bus to an unauthorized person. Therefore, respondent No.2 claimed that it is not liable to pay any compensation to the petitioner and prayed for dismissal of the petition with costs.

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

“1. Whether the accident occurred due to rash and negligent driving of the driver of the Bus bearing registration No.AP 21 TW 0552?

2. Whether the claimant is entitled to claim compensation of Rs.6,00,000/- or to what just amount and from whom the same shall be recovered?

3. To what relief?”

09. On behalf of the petitioner, he himself was examined as PW1 and got examined Dr.M.Elias Basha as PW2 and Exs.A1 to A7 and Ex.X1 were marked. On behalf of the contesting respondent, its Deputy Manager Y.Nageswara Rao was examined as RW1 in chief; however, as he was not available for cross-examination, his evidence was eschewed. Thereafter, the Senior Assistant of the Insurance Company was examined as RW2 and Ex.B1/photo copy of policy was marked.

10. After hearing both parties and after considering the oral and documentary evidence on record, the Tribunal allowed the claim petition against respondent Nos.1 to 3 and awarded compensation of Rs.1,35,000/- to the petitioner. The respondent Nos.1 to 3 were directed to deposit the said amount, along with interest @ 7.5% per annum from the date of petition till

realization. On such deposit, the petitioner was permitted to withdraw the entire amount along with accrued interest and costs.

11. Aggrieved by the said award, the petitioner has preferred the present appeal seeking enhancement of compensation on the ground that though PW2, the Doctor who issued Ex.A6 disability certificate was examined, the Tribunal failed to properly consider his evidence. According to Ex.A6, the petitioner suffered 79% permanent disability. Hence, the petitioner prays to allow the appeal by enhancing the compensation already awarded by the Tribunal.

12. On the other hand, learned counsel for the respondents herein has supported the impugned award and prayed to dismiss the appeal.

13. Now the point for consideration is:

Whether the order of the Tribunal needs any interference?

14. Heard learned counsel for the petitioner and Mr.S.Bala Gopal, learned counsel for respondent No.2/insurance company.

POINT:

15. A perusal impugned award discloses that PW2, who issued Ex.A6 disability certificate assessing 79% permanent disability, admittedly is not the doctor who treated the petitioner. The medical records reveal that the petitioner was initially admitted on 04.07.2016 in the Department of Neurosurgery with head injury and fracture of right femur neck. Subsequently,

he was shifted to the Orthopedic Department and underwent surgery on 21.07.2016. He was discharged on 28.07.2016. The disability certificate was issued on 13.12.2016 during a medical camp, nearly six months after the accident. The said certificate was not issued by a duly constituted Medical Board. Except the testimony of PW2, no cogent or corroborative evidence has been placed on record to substantiate the claim of 79% permanent disability. PW2 also admitted that he had not treated the petitioner and that the petitioner was treated under the NTR Vidya Seva Scheme, under which treatment was provided free of cost. Ex.X1/case sheet discloses that the petitioner sustained a fracture of right femur neck. The photograph filed by the petitioner does not indicate any visible deformity except bandaging. In the absence of reliable evidence to establish functional disability affecting the petitioner's earning capacity, the Tribunal rightly declined to accept the assessment of 79% disability. Accordingly, the Tribunal awarded Rs.50,000/- towards fracture injury, Rs.50,000/- towards pain and suffering, Rs.70,000/- towards Extra nourishment and Rs.5000/- towards transportation charges totaling Rs.1,35,000/-. Considering the nature of the injuries and the evidence on record, the compensation awarded by Tribunal cannot be said to be arbitrary or inadequate. The amount awarded is just and reasonable, and this Court finds no ground to enhance the same.

16. Viewed from any angle, this Court does not find any grounds to interfere with the award impugned in the appeal.

17. In the result, the appeal is dismissed. No costs.

Pending miscellaneous applications, if any, shall stand closed.

Date: 16.02.2026
KGR

JUSTICE V.SUJATHA