



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

[3333]

MONDAY, THE TWENTIETH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 128/2023

Between:

1.THE ANDHRA PRADESH ROAD TRANSPORT CORPORTATION,
REP. BY ITS MANAGING DIRECTOR, PANDIT NEHRU BUS
STATION, RTC HOUSE, VIJAYAWADA, KRISHNA DISTRICT.

...APPELLANT

AND

1.MORVINENI KOTESWARA RAO, S/O MURALI MOHANA RAO, AGED
ABOUT 52 YEARS, R/O. DNO. 3-157/C, YERRABALEM,
MEDARAMETLA, KORISAPADU (M), PRAKASAM DISTRICT.

2.Y NARASIMHA RAO, , S/O VENKATESWARLU, AGED ABOUT 41
YEARS, AUDIPUDI VILLAGE, KARAMCHEDU MANDAL PRAKASAM
DISTRICT

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Courtpleased to set
aside Decree and Award dated 18.08.2022 passed in M.V.O.P No. 249 of
2017 on the file of Motor Accidents Claims Tribunal cum I Addl. District Judge,
Ongole and consequently dismiss the claim Petition 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
pleased to condone the delay of (105) days in filing the appeal against
M.V.O.P No. 249 of 2017, dated 18.08.2022 on the file of Motor Accidents
Claims Tribunal -Cum- I Addl. District Judge, Ongole and to 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 grant stay of operation of Decree and Award dated 18.08.2022 passed in M.V.O.P No. 249 of 2017 on the file of Motor Accidents Claims Tribunal cum I Addl. District Judge, Ongole and pass

IA NO: 1 OF 2025

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 grant permission to the respondent no.1 herein to withdraw the 50% of compensation amount along with interest deposited by the Appellant herein in pursuant to the order passed in I.A No.2 of 2023 in MACMA No. 128 of 2023 dated 24-03-2023 and pass

Counsel for the Appellant:

- 1.ARAVALA RAMA RAO(SC FOR APSRTC KKAC)

Counsel for the Respondent(S):

- 1.
- 2.AYESHA AZMA S

The Court made the following:

JUDGMENT:

This Civil Miscellaneous Appeal is preferred by the APSRTC, challenging the order and decree dated 18.08.2022 passed in M.V.O.P.No.249 of 2017 on the file of the Motor Accidents Claims Tribunal-cum-I Additional District Judge, Ongole, wherein the Tribunal awarded compensation of Rs.8,89,816/- (Rupees Eight lakhs Eighty Nine thousand Eight hundred and Sixteen only) as against the claim of Rs.50,00,000, for the injuries sustained by the petitioner in a motor accident that occurred on 30.03.2017.

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, in brief, is as follows:

a) On 30.03.2017, in the morning hours, the petitioner went to Amaravathi, Guntur District. After completion of his work, in the evening, he came to Chilakaluripet Bus Stand to proceed to Medarametla. At about 7:00 p.m., he boarded APSRTC Bus bearing No.AP 27 Z 0256 and stood on the footboard due to heavy crowd. While the petitioner and other passengers were attempting to alight from the bus, the 1st respondent, who was driving the bus, suddenly applied brakes while reversing the vehicle. As a result, the petitioner fell down and the bus ran over his left leg. Consequently, his left leg was crushed below the knee and later amputated. The accident occurred due to the rash and negligent driving of the driver of the said bus. A

complaint was lodged by the petitioner's wife, which was registered as Crime No.73 of 2017 of Chilakaluripet Urban Police Station under Section 338 IPC.

04. The 1st respondent filed a counter denying the allegations and contended, inter alia, that the petitioner was negligently standing on the footboard in violation of safety rules, and while the bus was being reversed, the petitioner attempted to board it, resulting in the accident. It was further contended that the accident occurred due to the petitioner's own negligence and that the compensation claimed is excessive.

05. The 2nd respondent also filed a counter denying negligence on the part of the driver and contended that the petitioner himself was negligent in standing on the footboard of a moving bus. It was also contended that the petitioner did not prove his income, expenditure, or extent of disability, and therefore, he is not entitled to the compensation claimed.

06. Based on the pleadings, the Tribunal framed the following issues for trial:

"1. Whether accident took place due to rash and negligent driving of driver of APSRTC Bus bearing Registration No.AP 27 Z 0256?

1) Whether the petitioner is entitled to the compensation and if so, from whom out of the respondents and to what extent?

2) To what relief?

07. On behalf of the petitioner, P.W.1 to P.W.6 were examined and Exs.P1 to P21 were marked. On behalf of the respondents, no oral or documentary evidence was adduced.

08. After hearing both parties and after considering the oral and documentary evidence on record, the Tribunal partly allowed the claim petition is as follows:

“In the result, the petition is allowed in part awarding compensation of Rs.8,89,816/- (Rupees Eight lakhs Eighty Nine thousand Eight Hundred Sixteen only) with proportionate costs and interest @ 7.5% p.a., from the date of petition till the date of deposit or realization of said amount. Respondents 1 and 2 are liable to pay said compensation of Rs.8,89,816/- (Rupees Eight lakhs Eighty Nine thousand and Eight Hundred Sixteen only) to the petitioner jointly or severally and they are directed to deposit said compensation amount into this court within one month from the date of this order. Out of total compensation amount of Rs.8,89,816/- (Rupees Eight lakhs Eighty Nine thousand and Eight Hundred Sixteen only) the petitioner is permitted to withdraw an amount of Rs.3,89,816/- together with interest and costs out of the above compensation amount. But the remaining amount of Rs.5,00,000/- shall be kept in fixed deposit in any nationalized bank for a period of two years. Advocate fee for the petitioner is fixed at Rs.2,000/- (Rupees Two thousand only).

09. Aggrieved by the said award, the present appeal is filed by APSRTC, contending that the Tribunal failed to properly appreciate the evidence and erred in not attributing contributory negligence to the petitioner, who was standing on the footboard along with several other passengers in an overcrowded bus.

10. On the other hand, learned counsel for the petitioner has supported the impugned award and prayed to dismiss the appeal.

11. Heard Mr.A.Rama Rao, learned Standing Counsel for the appellant and Ms.Ayesha Azma.S, learned counsel for respondent No.1 herein.

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 is evident that the petitioner examined himself as P.W.1 and categorically deposed that on 30.03.2017, in the morning hours, he went to Amaravathi in Guntur District and, after completion of his work, returned in the evening to Chilakaluripet Bus Stand to proceed to Medarametla. At about 7:00 p.m., he boarded the APSRTC bus bearing No. AP 27 Z 0256 and, due to heavy crowd, stood on the footboard of the bus. While the petitioner and some other passengers were attempting to alight from the bus, the 1st respondent, who was driving the bus, suddenly reversed the vehicle, as a result of which the petitioner fell down and the bus ran over his left leg. Consequently, the petitioner sustained grievous injuries, and his left leg was crushed below the knee and was subsequently amputated. In support of his case, the petitioner also examined P.W.2, a third party, who was stated to be an eye-witness to the occurrence. Though P.W.2 filed his chief-examination affidavit, his evidence was eschewed at the request

of the petitioner. The petitioner, in further support of his claim, marked Exs.P1 to P21. Upon consideration of the evidence of P.W.1 and the documentary evidence under Exs.P1 to P21, along with the chief-examination affidavit of P.W.2, the Tribunal answered Issue No.1 by holding that the accident occurred due to the involvement of the offending bus and, having regard to the circumstances, attributed contributory negligence equally, fixing 50% liability on the petitioner and 50% negligence on the 1st respondent-driver.

14. With regard to Issue No.2, though it is the evidence of P.W.1 that he was working as an agriculturist possessing Ac.25.08 cents of joint family agricultural land and also filed documents in support of the same, the Tribunal fixed the income of the petitioner as Rs.8,000/- per month, on the ground that the petitioner himself did not assess his income as Rs.6,00,000/- per annum for the purpose of payment of income tax. The petitioner, in order to establish the nature of injuries and disability, examined P.W.3, Dr. P.Pradeep, an Orthopedic Surgeon and a member of the Medical Board, who issued Ex.P13/disability certificate assessing the permanent disability at 70%. The petitioner also examined P.W.5, Dr.M.J.Naidu, an Orthopedic Surgeon, who deposed that the petitioner was admitted on 31.03.2017 with a crush injury to the left foot and ankle, including a degloving injury to the distal leg, and that a below-knee amputation was performed on the same day. The petitioner was discharged on 06.04.2017. Further, P.W.6, the Administrative Officer of the said hospital, was examined in support of Ex.P12/quotation, stating that the cost for an artificial limb was assessed at Rs.2,92,000/-. As the age of the

petitioner was 51 years as on the date of the accident, as per Ex.P4/SSC certificate, the Tribunal has rightly added 10% towards future prospects in terms of the decision of the Hon'ble Apex Court in **National Insurance Company v. Pranay Sethi**¹. After such addition, the monthly income of the petitioner comes to Rs.8,800/- (Rs.8,000 + 800). By applying the appropriate multiplier of '11' for the age group of 51 years, the loss of earnings would come to Rs.11,61,600/- (Rs.8,800 × 11 × 12).

15. However, it is to be noted that though the Tribunal, in paragraph No.33 of the award, observed that the disability assessed by the Medical Board under Ex.P13 is to be accepted, it erroneously considered only 50% disability while calculating the loss of earnings. Upon re-appreciation of the material on record, this Court is of opinion that, in view of the principle laid down by the Hon'ble Apex Court in **Prakash Chand Sharma vs. Rambabu Saini and Anr.**², the disability assessed by a competent Medical Board ought not to be reassessed without cogent reasons. Therefore, the disability has to be taken at 70%. Accordingly, the loss of future earnings is recalculated at Rs.8,13,120/- (Rs.11,61,600 × 70%).

16. Further, the Tribunal awarded Rs.25,000/- towards pain and suffering, Rs.10,000/- towards medical attendance, Rs.10,000/- towards extra nourishment and medicine and Rs.2,00,000/- towards artificial limb,

¹2017 ACJ 2700

² 2025 Supreme (SC) 305

Rs.36,900/- towards travelling expenses for getting the treatment. Thus, the total compensation comes to Rs.10,95,020/-.

17. However, though the Tribunal, while answering Issue No.1, held that the petitioner, having stood on the footboard of the offending bus, lost control and fell down, and accordingly fixed contributory negligence at 50% on the petitioner and 50% on the 1st respondent, it failed to deduct the said 50% while awarding compensation. In view of the finding of contributory negligence, a deduction of 50% is warranted. After such deduction, the compensation payable comes to Rs.5,47,510/- (Rs.10,95,020 × 50%).

18. Accordingly, the Motor Accident Civil Miscellaneous Appeal is partly allowed, reducing the compensation from Rs.8,89,816/- to Rs.5,47,510/- with interest at 7.5% P.A. from the date of filing of the petition till the date of realization. There shall be no order as to costs.

As a sequel, pending interlocutory applications, if any, shall stand closed.

JUSTICE V. SUJATHA

Date: 20.04.2026
KGR