



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

[3333]

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

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 117/2023

Between:

- 1.VICE CHAIRMAN AND MANAGING DIRECTOR, APSRTC,
REPRESENTED BY ITS REGIONAL MANAGER, RTC DEPOT,
VIZIANAGARAM.

...APPELLANT

AND

- 1.SIVVALA SWATI MAURAPAKA SWATI, W/O LATE SIVALLA
RAMBABU, AGED ABOUT 27 YEARS, HOUSEHOLD DUTIES,
RESIDENT OF DOOR NO. 1-362, MAIN STREET, TAMPATAPALLE
VILLAGE, PALAKONDA, MANDAL, SRIKAKULAM DISTRICT.
- 2.SIVVALA DEEPIKA, D/O LATE SIVALLA RAMBABU, AGED ABOUT
05 YEARS, RESIDENT OF DOOR NO. 1-362, MAIN STREET,
TAMPATAPALLE VILLAGE, PALAKONDA, MANDAL, SRIKAKULAM
DISTRICT.
- 3.SIVVALA RAMANAMMA, W/O APPAIANAI DU. AGED ABOUT 52
YEARS, HOUSEHOLD DUTIES, RESIDENT OF DOOR NO. 1-362,
MAIN STREET, TAMPATAPALLE VILLAGE, PALAKONDA, MANDAL,
SRIKAKULAM DISTRICT.
- 4.SIVVALA APPALANAI DU, S/O APPALASWAMI, AGED ABOUT 60
YEARS, RESIDENT OF DOOR NO. 1-362, MAIN STREET,
TAMPATAPALLE VILLAGE, PALAKONDA, MANDAL, SRIKAKULAM
DISTRICT (2ND RESPONDENT BEING MINOR REP. BY HER
MOTHER AND NATURAL GUARDIAN/ 1ST RESPONDENT)
- 5.SAVARA SIMMAYYA, S/O DUMBURU. AGED ABOUT 35 YEARS,
WORKING AS DRIVER IN APSRTC, RESIDENT OF D.NO. 5-18,
AKKANAGUDA VILLAGE, SEETAMPETA MANDAL, SRIKAKULAM
DISTRICT.

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Courtpleased to allow the appeal by setting aside the Judgment and Decree passed by Chairman, Motor Accidents Claims Tribunal -Cum-Pincipal District Judge, Srikakulam passed, in M.V.O.P.No. 158/2020 dated 22.12.2022, 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 to grant stay of execution of Decree passed by Chairman, Motor Accidents Claims Tribunal -Cum-Pincipal District Judge, Srikakulam passed in M.V.O.P.No. 158/2020 dated 22.12.2022, pending disposal of the above M.A.C.M.A 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 may be pleased to permit the petitioners to withdraw the decretal amount passed in I.A.No 1 of 2023 in MACMA No 117 of 2023 Dated 21.03.2023 and pass

IA NO: 2 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 may be pleased to vacate the interim stay granted in I.A.No 1 of 2023 in MACMA No 117 of 2023 Dated 21.03.2023 and pass

Counsel for the Appellant:

1.K SRINIVASA PRASAD SC For APSRTC

Counsel for the Respondent(S):

1.S SRINIVASA RAO

The Court made the following:

J U D G M E N T:

The appeal is filed by the appellant/APSRTC, challenging the order and decree dated 22.12.2022 passed in M.V.O.P.No.158 of 2020 by the Motor Accidents Claims Tribunal-cum-Principal District Judge, Srikakulam, wherein the Tribunal awarded compensation of Rs.16,76,500/- (Rupees Sixteen Lakhs Seventy Six Thousand Five Hundred only) to the claimants/respondents No.1 to 4 herein, as against the claim of Rs.20,00,000/-, on account of the death of deceased Sivvala Rambabu in a motor accident that occurred on 19.03.2020.

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 19.03.2020 at about 7:30 a.m., the deceased left his house on a motorcycle bearing No.AP 30-Q-6680 proceeding towards Seethampeta for his work as a JCB operator. When he reached near the tank curve at Sirikonda Village, the driver of APSRTC bus bearing No.AP 20-Z-0270 drove the vehicle in a rash and negligent manner and at high speed, and dashed against the motorcycle of the deceased. As a result, the deceased fell down and sustained grievous injuries, including head injuries, fractures, and bleeding injuries, and died on the spot. The accident was reported to Palakonda Police Station and a case in Crime No.81 of 2020 under Section 304-A IPC was registered against the driver of the bus. After investigation,

charge sheet was filed against him in C.C. No.256 of 2020 on the file of the Judicial Magistrate of First Class, Palakonda.

b)) It was further pleaded that the deceased was working as a JCB operator earning about Rs.600/- per day, i.e., approximately Rs.18,000/- per month, and was maintaining the entire family, including his aged parents. On account of his sudden death, the petitioners lost their source of livelihood and, therefore, sought compensation of Rs.20,00,000/-.

04. Respondent Nos.1 and 2 filed separate written statements denying the allegations. Their common defence was that the bus driver was driving cautiously and in normal speed on the correct side of the road. According to them, the deceased attempted to overtake a lorry at high speed and, while coming onto the wrong side of the road, lost control of the motorcycle and dashed against the bus. Thus, they contended that the accident occurred solely due to the rash and negligent driving of the deceased himself. It was also pleaded that the owner and insurer of the motorcycle were necessary parties and that there was contributory negligence on the part of the deceased.

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

“1. Whether the deceased Sivvala Rambabu, S/o Appalanaidu, died in the road traffic accident occurred on 19.03.2020 at about 7.30 hours, near tank curve, Sirikonda village, Palakonda Mandal, due to rash and negligent driving of APSRTC bus bearing No.AP 29-Z-0270 by its driver/1st

respondent, or due to riding of the motor cycle bearing No.AP 30-AQ-6680 by the deceased himself or of both?

2. What is the correct age and income of the deceased by the date of accident?

3. Whether the petitioners are entitled to receive an amount of Rs.20 lakh, with interest at 24% per annum from the date of accident till the date of realization towards compensation as claimed by the petitioners, if so from whom?

4. To what relief?"

06. On behalf of the petitioners, P.W.1 and P.W.2 were examined and Exs.A1 to A5 were marked. On behalf of the respondents, the 1st respondent was examined as R.W.1 and no documents were marked.

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

"In the result, petition is partly allowed, with proportionate costs, and petitioners are awarded Rs.16,76,500/- (Rupees sixteen lakh, seventy six thousand and five hundred only) as compensation, with interest at 7.5 per cent per annum, from the date of petition till deposit or realization. The compensation assessed is apportioned at Rs.9,00,000/- to the 1st petitioner, Rs.5,00,000/- to the 2nd petitioner, and Rs.2,76,500/- to the 3rd petitioner, and the 1st and 2nd respondents are directed to deposit the compensation amount, jointly and severally, within one month from the date of Award. On such deposit, 1st petitioner is permitted to withdraw Rs.4,50,000/- and 3rd petitioner is permitted to withdraw, Rs.1,38,250/-, and their remaining amounts, shall be kept in Fixed Deposit in any Nationalized Bank for a period of one year, and thereafter they are at liberty to withdraw the same. The amount apportioned to the 2nd petitioner, shall be kept in Fixed Deposit in any Nationalized Bank till she attains majority, and thereafter she is at liberty to withdraw the same. Rest of the claim is dismissed. Advocate fee is fixed at Rs.5,000/-."

08. Aggrieved by the said Award, APSRTC preferred the present appeal contending that the Tribunal erred in fastening negligence upon the driver of

the APSRTC bus, whereas the accident occurred due to the negligence of the deceased himself while overtaking another vehicle.

09. On the other hand, learned counsel for the petitioners/respondents No.1 to 4 herein has supported the impugned award and prayed to dismiss the appeal.

10. Now the point for consideration is:

Whether the order of the Tribunal needs any interference?

POINT:

11. On a perusal of the impugned Award, it can be observed that the 1st petitioner, being the wife of the deceased, examined herself as P.W.1 and, in support of her case, marked Exs.A1 to A5. The petitioners also examined P.W.2, an eyewitness to the accident, who categorically deposed that on the date of the accident, at about 7:40 a.m., he was proceeding behind the motorcycle of the deceased and, upon reaching the place of occurrence, observed the 1st respondent driving the APSRTC bus in a rash and negligent manner and at high speed from the opposite direction and dashed against the motorcycle of the deceased. As a result, the deceased fell on the road and sustained grievous injuries, including head injury, fracture injury on the right knee, bleeding injury on the left foot, scratch injury on the right eyebrow, and bleeding from the mouth, and died on the spot. The Tribunal, upon considering the evidence of P.Ws.1 and 2 coupled with Ex.A1-copy of FIR,

Ex.A2-copy of charge sheet, Ex.A3-copy of Motor Vehicle Inspector's Report, and Ex.A5-inquest report, answered Issue No.1 in favour of the claimants, holding that the accident occurred due to the rash and negligent driving of the APSRTC bus by the 1st respondent, resulting in the death of the deceased.

12. So far as the quantum of compensation is concerned, it is evident from the testimony of P.W.1 that the deceased was working as a JCB Operator and earning Rs.600/- per day. However, in the absence of any documentary evidence in support of the said income, the Tribunal rightly fixed the notional income of the deceased at Rs.7,500/- per month. Further, following the principles laid down by the Hon'ble Supreme Court in **National Insurance Company v. Pranay Sethi**¹, the Tribunal added 40% of the income towards future prospects and thereby rightly calculated his monthly income together with future prospects at Rs.10,500/- (Rs.7,500/- + Rs.3,000/-). After considering the number of dependents as four, 1/4th of the income of the deceased was deducted towards his personal and living expenses, which comes to Rs.2,625/- per month. After deducting his personal expenses, the contribution of the deceased to his family was taken at Rs.7,875/- (Rs.10,500/- – Rs.2,625/-). By applying the relevant multiplier of '17' applicable to the age of the deceased, i.e., 30 years, as recorded in Ex.A4-Postmortem Report and Ex.A5-Inquest Report, the Tribunal arrived at Rs.16,06,500/- (Rs.7,875 × 12 × 17) towards loss of dependency, which is just and proper and in accordance

¹2017 ACJ 2700

with the guidelines laid down by the Hon'ble Apex Court in **Sarla Verma and Others v. Delhi Transport Corporation and Another²**.

13. Besides the same, the Tribunal awarded Rs.40,000/- towards loss of consortium to the 1st petitioner, Rs.15,000/- towards loss of estate, and Rs.15,000/- towards funeral expenses, following the decision of the Hon'ble Apex Court in **Pranay Sethi** (referred supra). However, it can be observed that the Tribunal failed to award compensation towards parental consortium to the minor child of the deceased i.e., the 2nd petitioner and toward filial consortium to petitioners No.3 and 4, who are the parents of the deceased to a tune of Rs.40,000/- each. Therefore, this Court deems it appropriate to award a sum of Rs.40,000/- to the 2nd petitioner towards parental consortium and a sum of Rs.80,000/- (Rs.40,000 X 2) to petitioners No.3 and 4 under the head of filial consortium.

14. Thus, to sum up, the amounts awarded by the Tribunal and the amounts granted in the present appeal, in the light of the computations made above, are as follows:

Head	Amount granted by the Tribunal	Amount now awarded by this Court
Loss of dependency	Rs.16,06,500/-	Rs.16,06,500/-
Loss of estate	Rs.15,000/-	Rs.15,000/-
Funeral expenses	Rs.15,000/-	Rs.15,000/-
Loss of consortium	Rs.40,000/-	Rs.1,60,000/-
Total	Rs.16,76,500/-	Rs.17,96,500/-

² 2009 LawSuit (SC) 613

15. The present appeal has been preferred by the APSRTC. Even though, it is an appeal filed by the Corporation, this Court can enhance the compensation even in the absence of any cross-objections filed by the claimants, in view of the law laid down by the Hon'ble Apex Court in "**Surekha Vs. Santosh**"³.

16. In the result, M.A.C.M.A.No.117 of 2023 is dismissed, However, the compensation awarded by the learned Chairman, Motor Accidents Claims Tribunal-cum-Principal District Judge, Srikakulam, vide order dated 22.12.2022 passed in M.V.O.P.No.158 of 2020 is enhanced from Rs.16,76,500/- to Rs.17,96,500/-, with interest as ordered by the Tribunal. The compensation shall be apportioned among the claimants in the same manner and ratio as ordered by the Tribunal. No costs.

Pending miscellaneous applications, if any, shall stand closed.

JUSTICE V. SUJATHA

Date: 27.04.2026
KGR

³ SCC OnLine SC 1312