

APHC010141552024



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

[3333]

TUESDAY, THE TENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 235/2024

Between:

1. SHRIRAM GENERAL INSURANCE COMPANY LIMITED, REP. BY ITS
BRANCH MANAGER, JAYASREE GARDENS RAJAMAHENDRAVARAM,
RAJAMAHENDRAVARAM.

...APPELLANT

AND

1. CHAVATAPALLI RAMA LAKSHMI, W/O.LATE GOVINDU, AGED 37
YEARS, HINDU, FEMALE, OCCUPATION-HOUSE WIFE, R/O.D.NO.9-1-
080,2ND CROSS ROAD, UKV NAGAR, PUDUCHERRY, YANAM,
533434, YANAM DFMC.
2. CHAVATAPALLI PUMA, D/O.LATE GOVINDU, AGED 23 YEARS, HINDU,
FEMALE, OCCUPATION NIL, R/O. D.NO.9-1-080,2ND CROSS ROAD,
UKV NAGAR, PUDUCHERRY, YANAM, 533434, YANAM DFMC.
3. CHAVATAPALLI SAI CHANDANA, D/O.LATE GOVINDU, AGED 17
YEARS, HINDU, FEMALE, OCCUPATION-STUDENT, R/O.D.NO.9-1-
080,2ND CROSS ROAD, UKV NAGAR, PUDUCHERRY, YANAM,
533434, YANAM DFMC (3RD PETITIONER BEING MINOR REP BY HER
MOTHER AND NATURAL GUARDIAN 1 PETITIONER CHAVATAPALLI
RAMA LAKSHMI)
4. UTTARABILLI PYDIRAJU RAJU, S/O.ADINARAYANA, AGED 37 YEARS,
HINDU, MALE, DRIVER OF TATA ACE VAN BEARING REG NO. AP 05
TX 7235, R/O. D. NO. 7-11 -099, OLD RAJIV NAGAR, YANAM,

PUDICHERRY.

5.TOTA MANGA DEVI, W/O.NAGESWARARAO, AGED 46 YEARS, HINDU, FEMALE, OWNER OF TATA ACE VAN BEARING NO. AP 05 TX 7235, R/O.D.NO.3-12, THOTA VARI STREET, SUNKARAPALEM YANAM, PONDICHERRY.

6.CHAVATAPALLI PATTABHI RAMAYYA, S/O.RAMASWAMY, AGED 80 YEARS, HINDU, MALE, OCCUPATION NIL, R/O.C/O.APPARAO, COSTAL BANK MANAGER, VEMAGIRI METTA, KADIYAM VILLAGE.

...RESPONDENT(S):

Counsel for the Appellant:

1.GUDI SRINIVASU

Counsel for the Respondent(S):

1.

The Court made the following:

THE HONOURABLE SMT JUSTICE V.SUJATHA**MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 235/2024****J U D G M E N T:**

1. This Motor Accident Civil Miscellaneous Appeal (for short MACMA) has been preferred by the 3rd Respondent – Shriram General Insurance Company Limited, Rep. by its Branch Manager, Rajamahendravaram Branch, challenging the Order and Decree dated 25.07.2023 in M.V.O.P.No.586 of 2017 passed by the Chairman, Motor Accident Claims Tribunal –cum- X Additional District Judge, Rajamahendravaram, awarding compensation of Rs.9,80,000/- as against the claim of Rs.8,00,000/-.

For the sake of convenience and to avoid confusion, the parties hereinafter are referred to as they were arrayed before the Tribunal i.e., Appellant as 3rd Respondent; Respondents No.1 to 3 as Petitioners – Claimants; Respondents No.4 and 5 as Respondents No.1 and 2; Respondent No.6 as Respondent No.4.

2. 1st petitioner bring wife, Petitioners No.2 and 3 being children of deceased Late-Govindu filed M.V.O.P.No.586 of 2017 claiming compensation of Rs.8,00,000/- for the death of Late. Govindu in a motor vehicle accident that occurred on 14.06.2017 at about 3.30 P.M at A.Kothapalli Village in Thondangi Mandal.

3. The brief averments of the petition in MVOP No.587 of 2017 are that- on 14.06.2017, deceased engaged a TATA ACE Van bearing registration

No. AP 05 TX 7235 from Yanam to Tuni along with their empty boxes to bring mangoes load from Tuni Area to Yanam and thus the deceased was travelling in the said vehicle in the capacity of the owner of the goods. At about 3.30 AM., the 1st respondent being the driver of TATA ACE bearing No. AP 05 TX 7235 drove the same in a rash and negligent manner, at high speed and when it reached the place of accident near A.Kothapalli village, Thondangi Mandal, driver lost control over the said van and dashed against a road side tree, as a result, the deceased who was travelling in the said vehicle in the capacity of owner of the goods, sustained severe Injuries and succumbed to the said injuries on the same day.

i. The deceased was hale and healthy, aged 42 years at the time of accident. The deceased was a fruit merchant of all seasons and he used to earn Rs.15,000/- per month and contributed all his earnings for the maintenance of the family of the petitioners. Due to the death of the deceased in the accident, the 1st petitioner lost her consortium and petitioners No.2 and 3 lost their parental care and guidance. The petitioners spent an amount of Rs.50,000/- for funeral expenses of the deceased.

ii. The 1st Respondent is the driver and Respondents No.2 and 3 are the owner and Insurer of the vehicle, which was involved in the accident and as such all the respondents are jointly and severally liable to pay compensation amount to the petitioners.

4. The 3rd respondent filed written statement stating that the respondent Insurance company not liable to pay compensation to the petitioners as the 1st respondent/driver of the vehicle TATA ACE van bearing No.AP 05 TX 7235 was not holding any sort of driving license. The 2nd respondent/owner knowing the fact that the 1st respondent not holding a valid and effective driving license, willfully handed over the said vehicle to the 1st respondent and thereby contravened the rules and provisions made under M.V Act and committed breach of terms and conditions of the policy. The vehicle TATA ACE Van bearing registration No.AP 05 TX 7235 alleged to have been involved in the accident is a goods carriage vehicle means motor vehicle constructed or adapted solely for the carriage of goods, at the material time of the accident vehicle was used for carrying passengers, which is the breach of the provisions of the M.V Act and the Rules and also the breach of the terms and conditions of the policy and therefore, this respondent is not liable to pay any amount of compensation. The TATA ACE Van bearing registration No.AP 05 TX 7235 was not having valid registration and permit, fitness to ply on the roads, thus insured violated the terms and conditions of the insurance policy. As per section 134 of M.V Act 1988, it is mandatory duty of the 2nd respondent to furnish the particulars of policy, date, time and place of accident, particulars of deceased and the name of the driver and particulars of the driving license but 2nd respondent has not complied with statutory demand. 3rd respondent denied the age, health condition

and earning Rs.15,000/- per month by the deceased by doing all seasonal fruits business and occurrence of accident on the said date, that the time and place and deceased traveled in the said vehicle in the capacity of owner of goods, sustained severe injuries and succumbed to injuries, that the said accident was occurred due to rash and negligent driving of 1st respondent only.

5. Respondents No.1, 2 and 4 having been remained exparte.

6. Basing on the above pleadings, the following issues were framed by the Tribunal for enquiry/Trial:

- 1) Whether the deceased namely Chavatapalli Govindu died due to the rash and negligent driving of driver of van bearing No. AP 05 TX 7235?
- 2) Whether the petitioners are entitled to any compensation? If so, to what amount and against whom?
- 3) To what relief?

7. During the course of enquiry/Trial, 1st petitioner – Chavatapalli Rama Lakshmi got examined as P.W.1, one G.Bala Durga Prasad got examined as P.W.2 and also got marked - Ex.A.1 - attested copy of FIR in Cr No.87 of 2017 of Thondangi Police station, dated 14.06.2017; Ex.A.2 - Attested copy of inquest report; Ex.A.3 - Attested copy of Post mortem report; Ex.A4 - Attested copy of M.V.I Report; Ex.A.5 - Attested copy of rough sketch of scene of offence; Ex.A.6 - Attested copy of Charge sheet;

On behalf of contesting 3rd Respondent, one S.Vasudeva Rao got examined as R.W.1, one G.Bala Durga Prasad got examined as R.W.2 and one D.Prasad, official from R.T.O Office, Yanam got examined as R.W.3 and also got marked Ex.X.1: Authorization letter issued by the District Transport Officer; Ex.X.2: Attested copy of "B" Register extract of vehicle bearing No.AP05 TX 7235; Ex.X.3: Attested copy of fitness history of the vehicle bearing No.AP05 TX 7235; Ex.X.4: Authorization letter, dt.3.04.2023; Ex.X.5: Search result in respect of the driving license of U.Pydiraju and Ex B.1 insurance policy copy.

8. Upon hearing both the Counsel, upon perusing the material on record, the Tribunal allowed the petition with proportionate costs, granting compensation of Rs.9,80,000/- directing the respondents 1 to 3 to pay the said amount jointly and severally with interest @ 7.5% p.a., from the date of the petition till the date of realization within one (01) month from the date of order. The 3rd respondent - insurance company is directed to pay the compensation amount to the claimants in the first instance and directed to recover the same from the owner of the offending vehicle i.e. 2nd respondent.

9. Being aggrieved by the said Order and Decree, the 3rd respondent – Insurance Company has preferred the present appeal on the grounds that - the TATA ACE bearing No.AP 05 TX 7235 is Goods carrying vehicle and no one can travel in the TATA Ace vehicle, except the driver and cleaner, that the Tribunal

ought to have seen that the deceased was travelling as an unauthorized passenger in a goods vehicle; that the owner of the TATA Ace intentionally and knowingly violated the terms and conditions of the policy and provisions of M.V Act by allowing a person who has no driving license to drive the TATA Ace and as the deceased was travelling as an unauthorized passenger in a Goods vehicle, as such appellant insurance company is not liable to pay any compensation, but, the Tribunal erred by directing the appellant - insurance company to pay the compensation to the claimants in the first instance and it is entitled to recover the same from the owner of the TATA Ace vehicle.

The claimants failed to prove the age, avocation and income of the deceased, in-spite of the same, the Tribunal taken monthly income of the deceased as Rs.6,500/- per month without any basis and awarded an amount of Rs.9,80,000/-under different heads without any basis, awarding interest @ 7.5% p.a. from the date of filing of the petition till the date of deposit, instead of 6% p.a as held by the Hon'ble apex court. Hence, prayed to allow this appeal by setting aside the decree and Order/award passed in M.V.O.P.No.586 of 2017 by the Chairman, Motor Accidents Claims Tribunal –Cum- X Additional District and Sessions Court, East Godavari at Rajamahendravaram, dated the 25.07.2023 against appellant/ 3rd Respondent.

10. Heard both counsel and perused the material in record.

11. On perusal of the award/order passed by the Tribunal, it can be observed that P.W.1-C.Rama Lakshmi, who is wife of the deceased, got examined herself as P.W.1 and to prove the manner of accident got examined P.W.2 – G.Bala Durga Prasad, who is direct eyewitness for the accident and he clearly stated about the manner of accident. Hence, by relying upon the evidence of P.W.1, P.W.2, coupled with Ex.A.1 – attested copy of F.I.R and Ex.A.6 - attested copy of charge sheet, in Crime No.87 of 2017 of Thondangi Police Station, which shows that after due investigation, it was established that the accident had occurred due to the negligence of respondent No.1, resulting the death of the deceased, the Tribunal safely concluded that the accident had occurred due to the negligence of 1st Respondent, resulting the deceased sustained injuries and succumbed to injuries.

12. With regard to the contention of the appellant/3rd respondent that the driver of TATA ACE was not having valid driving license to drive the vehicle at the time of accident and the deceased was travelling as an unauthorized passenger and he is not the owner of the goods, the Tribunal has taken note that the driver of TATA ACE was not having driving license, hence directed the appellant/ 3rd respondent to deposit the compensation amount first and then recover it from the owner – 2nd respondent as at the time of accident the insurance policy was in force, as the 2nd respondent violated the terms and conditions of the insurance policy by handing over the vehicle to a driver who

have no valid driving license to drive it. Though the petitioners' contention is that the deceased was traveling in the vehicle with empty boxes to bring mangoes from Tuni area to Yanam. However, on perusal of the Award passed by the Tribunal, it relied upon a Judgment reported in **2013(2) ALD 46, united India Insurance Company Limited, Nizamabad v. Mohd. Hussain and others**, under the similar circumstances wherein the Hon'ble Court has held that:-

“In view of the legal position indicated above and in the facts and circumstances of the present case that there were no goods in the vehicle at the time of said accident, the deceased cannot be held to be owner of the goods which he proposes to purchase for doing business after reaching the destination. By no stretch of imagination it can be said that the deceased was travelling in the goods vehicle as owner of the goods. The inevitable conclusion would be that the deceased was travelling in the offending vehicle not as owner of the goods, but, as a gratuitous passenger. Hence, the insurer is not liable to pay any compensation to the claimants. The Order of the Tribunal below is set aside and the appeal filed by the Insurance Company is allowed.

The Tribunal by virtue of its power and jurisdiction under Section 168 of the Motor Vehicles Act can issue direction to the insurer to satisfy the award in the first instance in favour of the victims/third parties and then recover the amount so paid from the insured. ...”

By relying on the above judgment, the Tribunal has rightly directed Respondents No.1 to 3 to pay the compensation jointly and severally, but however, directed

the Insurance Company is not liable to pay any compensation to the petitioners, but, the Insurance Company shall pay the compensation amount to the claimants in the first instance and then recover the same from the Owner of the offending vehicle i.e. Respondent No.2. Hence, this court does not find any merits to interfere with the award passed by the Tribunal.

13. Coming to the age, avocation and income of the deceased – basing on Ex.A.2 – inquest report, Ex.A.3 – postmortem report, age of the deceased was taken as 42 years. As no income proof of the deceased was submitted by the claimants, Tribunal considered Rs.6,500/- as monthly income, as the accident occurred in the year 2017, which is not excessive. For the age group of 40 – 50 years, 25% is added towards future prospectus as held by the Apex Court in **“National Insurance Company Vs. Pranay Sethi”**¹. If calculated accordingly, it would come to $(6,500 \times 12 = 78,000/-; 78,000 \times 25\% = 19,500/-; 78,000 + 19,500 =) 97,500/-$ per annum. As there are 3 (three) dependents depending upon the deceased $1/3^{rd}$ has to be deducted towards personal living expenses of the deceased, the amount contributed by the deceased to his family could come to $(97,500/- - 1/3^{rd} (32,500) =) Rs.65,000/-$ per annum. As per the decision of the Hon’ble Apex Court in **“Sarla Verma Vs. Delhi Transport Corporation”**² for the age 42 years appropriate multiplier applicable is “14”. If

¹ **2018 ACJ 2782.**

² 2009 ACJ 1298

the same is calculated, it would come to $(65,000 \times 14 =)$ Rs.9,10,000/-. Thus, an amount of Rs.9,10,000/- is awarded towards loss of dependency to the petitioners.

14. In addition to the above, the Tribunal also awarded Rs.15,000/- towards funeral expenses, Rs.15,000/- towards loss of estate was awarded and Rs.40,000/- towards loss of consortium. In total, the Tribunal rightly awarded an amount of Rs.9,80,000/-.

15. In view of the above discussion, this Court finds no illegality in the order/award passed by the Tribunal to interfere. Thus, the appeal is liable to be dismissed.

16. Accordingly, Motor Accident Miscellaneous Appeal is dismissed. No costs.

Consequently, pending miscellaneous applications, if any, shall stand closed.

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Dated 10.02.2026.

SMT JUSTICE V.SUJATHA

218

THE HONOURABLE SMT JUSTICE V.SUJATHA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 235/2024

DATED 10.02.2026

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