APHC010161182023

**IN THE HIGH COURT OF ANDHRA PRADESH**
**AT AMARAVATI** **[3333]**
**(Special Original Jurisdiction)**

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

**PRESENT**

**THE HONOURABLE SMT JUSTICE V.SUJATHA**

**<u>MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 157/2023</u>**

**Between:**

1. THE NEW INDIA ASSURANCE COMPANY LTD, REPRESENTED BY ITS MANAGER,

**...APPELLANT**

**AND**

1. UNUKURI ASIRAMMA, W/O YESURATNAM, AGED 46 YEARS, RESIDENT OF DOOR NO.2-141/1, DRIVERS COLONY. GOKAVARAM. E.G. DISTRICT
2. UNUKURI PUSHPALATHA, D/O YESURATNAM., AGED 28 YEARS. RESIDENT OF DOOR NO.2-141/1. DRIVERS COLONY, GOKAVARAM, E.G. DISTRICT
3. UNUKURI KRISHNA MURTHY, S/O YESURATNAM. AGED 33 YEARS. DRIVER OF VAN BEARING NO.AP37 TE 6339, RESIDENT OF DOOR NO. 1-141/3, SANJEEVAYYA NAGAR, GOKAVARAM. E.G. DISTRICT
4. UNUKURI YESURATNAM ALLYAS RATNAM, S/O KRISHNA MURTHY, AGED 50 YEARS. RESIDENT OF DOOR NO.1-141/3, SANJEEVAYYA NAGAR, GOKAVARAM. E.G. DISTRICT

**...RESPONDENT(S):**

Appeal filed under Order 41 of CPC before the High Courtpleased to set aside the decree and award dated 01.12.2022 passed in MVOP 273 of 2019 on the file of Chairman Motor Accidents Cliaims Tribunal -Cum I Addl. District and Sessions Judge, Rajamahendravaram and pass

**<u>IA NO: 1 OF 2023</u>**

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 stay all further proceedings in MVOP NO 273 of 2019 on the file of Chairman Motor Accidents Cliaims Tribunal -Cum I Addl. District 86 Sessions Judge, Rajamahendravaram and pass

**<u>IA NO: 2 OF 2023</u>**

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 permit me to withdraw the amount deposited to the credit of M.V.O.P. No. 273 of 2019 on the file of Court of Motor Vehicles Accidents Claims Tribunal -cum 1 Additional District Judge at Rajamahendravaram pursuant to the interim order passed by this Hon'ble Court in I.A. No.1 of 2023 in M.A.C.M.A. No. 157 of 2023 dt. 13/4/2023and pass

**Counsel for the Appellant:**

1. B PARAMESEWARA RAO

**Counsel for the Respondent(S):**

1. M.V. VIJAYADITYA REDDY

**The Court made the following:**

**JUDGMENT:**

The Civil Miscellaneous Appeal is filed by the appellant/Insurance Company, challenging the order and decree dated 01.12.2019 passed in M.V.O.P.No.273 of 2019 by the Motor Accidents Claims Tribunal – cum – I Additional District and Sessions Judge, East Godavari District at Rajamahendravaram, wherein the Tribunal awarded compensation of Rs.12,54,000/- (Rupees Twelve Lakhs Fifty Four thousand Only) to the claimants, as against the claim of Rs.15,00,000/-, on account of the death of the deceased, Unukuri Ratnam Raju, in a motor vehicle accident that occurred on 08.06.2019.

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, in brief, is as follows:

a) The deceased, Ratnam Raju, was engaged in supplying goats on a wholesale basis and selling them in nearby villages for meat purposes. On 06.06.2019, he, being the owner of the goods, started in the offending vehicle driven by the 1st respondent from Gokavaram Village to Shahapur Village in Karnataka State to purchase goats. After completion of the business, while they were returning on 07.06.2019, and when the vehicle reached Gammon Bridge near the Pump House of Konthamuru Village at about 4:00 a.m. on 08.06.2019, the driver of the vehicle drove it in a rash and negligent manner, resulting in the vehicle turning turtle. Due to the injuries sustained in the accident, the deceased died on the spot. A case in Crime No.263 of 2019 under Sections 304-A and 338 IPC was registered by the SHO, Rajanagaram Police Station against the 1st respondent.

b) The claimants contended that the deceased was aged about 25 years, hale and healthy, and earning Rs.50,000/- per month. It is further stated that he was the sole breadwinner of the family and his untimely death caused irreparable loss of dependency, love, and affection to the family. It is also stated that the deceased was unmarried and his marriage was scheduled within a month. Hence, they claimed compensation of Rs.15,00,000/-.

04. Respondent Nos.1 and 2 remained ex parte before the Tribunal.

05. Respondent No.3/Insurance Company filed a written statement contending that the manner of the accident, the driving licence of the 1st respondent, and the insurance policy of the 2nd respondent are put to strict proof. It is also contended that the deceased died due to his own negligence, as the door of the van was not properly locked. It is further contended that there was no negligence on the part of the 1st respondent, the driver of the crime vehicle, and that he was not having a valid and effective driving licence. It is further contended that the deceased was travelling in the van as a gratuitous passenger and fell down from the vehicle due to his own negligence and died.

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

*"1. Whether the death of Unukuri Ratnam Raju is caused in motor vehicle accident occurred on 08.06.2019 due to rash and negligent driving of Mini Van bearing registration No.AP37 TE 6339 by the 1st respondent?*

*2. Whether the petitioners are entitled for claim of compensation? If so to what amount and from which of the respondents?*

*3. To what relief?*

07. On behalf of the petitioners/claimants, P.W.s 1 and 2 were examined and Exs.A1 to A5 were marked. On behalf of the 3rd respondent, its Legal Assistant was examined as R.W.1 and Exs.B1 and B2 were marked.

08. After hearing both sides and after considering the oral and documentary evidence on record, the Tribunal partly allowed the claim petition, with the following terms:

> *"In the result, this petition is allowed in part and the petitioners are awarded compensation of Rs.12,54,000/- (Rupees Twelve Lakhs Fifty four Thousand only) along with interest @ 7.5% per annum with proportionate costs from the date of petition till the date of deposit. The 3rd respondent insurance company is directed to deposit the entire compensation amount of Rs.12,54,000/- with proportionate costs together with interest within one month from today. The rest of the claim is dismissed without costs. Thus issue No.3 is answered.*
>
> *On such deposit the 1st petitioner mother is entitled to Rs.10,54,000/- towards compensation along with interest over entire compensation amount and proportionate costs and the 2nd petitioner sister is entitled to compensation of Rs.2,00,000/-.*
>
> *The 1st petitioner is permitted to withdraw Rs.8,54,000/- from and out of her share of compensation amount and the balance amount of Rs.2,00,000/- along with interest over entire compensation amount*

*and costs shall be kept in fixed deposit in any Nationalized Bank for a period of 2 years. The 2$^{nd}$ petitioner is permitted to withdraw compensation amount of Rs.2,00,000/- awarded to her. The Advocate fee is fixed at Rs.5,000/-."*

09. Aggrieved by the said award, the present appeal is filed by the Insurance Company contending that the deceased was a gratuitous passenger in a goods vehicle and that there was a violation of policy conditions. It is further contended that, even assuming liability, the Tribunal ought to have adopted the "pay and recover" principle instead of fastening direct liability on the insurer.

10. Heard Mr.B.Parameswara Rao, learned Standing Counsel for the appellant and Mr.M.V.Vijay Aditya Reddy, learned counsel for the claimants. Perused the award passed by the Tribunal.

11. Now the point for consideration is:

Whether the order of the Tribunal needs any interference?

**POINT:**

12. It is the contention of the appellant that at the time of the accident, apart from the driver, three other persons were travelling in the cabin of the van and that the deceased was a gratuitous passenger, thereby constituting a violation of the policy conditions. However, on a perusal of the impugned award, it is evident that the Tribunal has elaborately considered this aspect and recorded a finding that the Insurance Company failed to adduce any evidence to

establish that the deceased was travelling as a gratuitous passenger. The insurer neither examined the driver nor any independent witness in support of its contention. On the other hand, the evidence of P.W.1 establishes that the deceased was travelling as the owner of the goods. This aspect was not effectively rebutted by the Insurance Company. Further, Ex.B1–policy and Ex.B2 disclose that the seating capacity of the vehicle permits two persons, i.e., the driver and the owner of the goods. In view of the above, the Tribunal rightly held that the deceased was travelling in the capacity of owner of goods and that there was no violation of policy conditions. Consequently, the Tribunal held that the 1st respondent–driver was responsible for the accident and the 2nd respondent–owner was also liable. The 3rd respondent–insurer is liable to indemnify the owner, as the policy was in force on the date of the accident. Accordingly, the liability was rightly fixed on respondent Nos.1 to 3, jointly and severally to pay the compensation and the same does not warrant any interference by this Court.

13. Coming to the quantum of compensation, though the claimants claims that the deceased was earning Rs.50,000/- per month, no documentary evidence was produced. Therefore, the Tribunal rightly assessed the income at Rs.7,500/- per month based on minimum wages prevailing at the relevant time. The Tribunal added 40% towards future prospects, considering that the deceased was aged 25 years, thereby arriving at a monthly income of Rs.10,500/- (Rs.7,500 +Rs.3,000). As the deceased was a bachelor, 50% of the income was deducted towards personal and living expenses, in

accordance with the settled principles, thereby arriving at a monthly contribution of Rs.5,250/- to the family. Applying the multiplier of '18', the loss of dependency was calculated at Rs.11,34,000/-, which is just and proper.

14. In addition, the Tribunal awarded Rs.40,000/- towards love and affection, Rs.15,000/- towards funeral expenses, Rs.15,000/- towards loss of estate ad Rs.50,000/- towards filial consortium. In total, the compensation comes to Rs.12,54,000/-. Thus, the compensation awarded by the Tribunal is just and reasonable and cannot be said to be excessive or on the higher side.

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

16. In the result, this appeal is dismissed. No costs.

Pending miscellaneous applications, if any, shall stand closed.

**JUSTICE V.SUJATHA**

Date: 20.04.2026
KGR