



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

[3505]

THURSDAY, THE THIRTIETH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 461/2019

Between:

1. ANDHRA PRADESH STATE ROAD, TRANSPORT CORPORATION,
REPRESENTED BY ITS MANAGING DIRECTOR, OFFICE AT
CROSS ROAD, MUSHEERABAD, HYDERABAD, PRESENT AT
PANDIT NEHRU BUS STATION, VIJAYAWADA, AMARAVATHI

...APPELLANT

AND

1. B MANI, S/O LATE B KRISHNAIAH, HINDU, AGED ABOUT 54 YEARS
COOLIE, R/O AT D.NO.16-130, PUTTUR HARIJANAWADA, PUTTUR
TOWN AND MANDAL, CHITTOOR DISTRICT

2. B MUNEMMA, W/O B MANI HINDU, AGED ABOUT
40 YEARS, HOUSEWIFE, R/O D.NO.16-130, PUTTUR
HARIJANAWADA, PUTTUR TOWN AND MANDAL, CHITTOOR
DISTRICT

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Court Memorandum
of Civil Miscellaneous Appeal before this Honble Court being aggrieved by the
judgment and Decree dated 09-03-2018 in MVOP NO.249/2013 on the file of
the Chairman, Motor Accidents Claims Tribunal-cum-III Additional District
judge, Tirupati

IA NO: 1 OF 2019

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 stay of all further proceedings the execution proceedings in MVOP No. 249 of 2013 on the file of The Chairman, Motor Accidents Claims Tribunal-cum-III Additional District Judge, Tirupati, Chittoor District and pass

Counsel for the Appellant:

1. ARAVALA RAMA RAO (SC FOR APSRTC KKAC)

Counsel for the Respondent(S):

1. O UDAYA KUMAR

The Court made the following:

JUDGMENT:-

The present appeal is filed by the appellant/Andhra Pradesh State Road Transport Corporation, aggrieved by order dated 09.03.2018 passed in M.V.O.P. No.249 of 2013 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-III Additional District Judge, Tirupati.

2. For the sake of convenience, the parties are referred to as they were referred in the claim petition.

3. The petitioners filed petition under Section 166(1) (c) of the Motor Vehicles Act, 1988, read with the Rules made thereunder, claiming compensation of Rs.10,00,000/- along with interest on account of the death of one Sri B. Devendra (hereinafter referred to as “the deceased”) in the accident that occurred on 26.12.2012 near Narayanavanam Junction Road at Puttur.

4. The facts leading to the case on hand are as follows:

5. It is the case of the petitioners that on 26.12.2012, the deceased was proceeding to college on a motorcycle along with a pillion rider, by name Sri M. Charan. When they reached Narayanavanam Junction Road at Puttur, the offending bus bearing registration No. AP-29-Z-2483 came in the opposite direction in rash and negligent manner and dashed against the motorcycle. As a result, the deceased and the pillion rider fell on the road, and the bus ran over the deceased, resulting in his death on the spot.

6. It was the further contention of the petitioners that the accident occurred due to the negligence of the driver of the offending bus. A case was registered against him, and after investigation, charge sheet was filed in C.C. No.103 of 2013 on the file of the Judicial Magistrate of First Class, Puttur. It was further contended that the deceased was hale and healthy as on the date of the accident he was, aged 22 years, and was studying 1st year Engineering at Sri Siddhartha Engineering College, Narayanavanam. It was also stated that the petitioners had incurred huge amounts towards his educational expenses.

It was further contended that had the deceased not met with the accident, he would have secured better employment and earned not less than Rs.50,000/- per month. Due to the untimely demise of the deceased, the petitioners lost their financial support, and there is nobody to look after them in their old age.

7. It was further contended that the deceased was also doing coolie work during evenings, weekends, and public holidays, apart from undertaking part-time work at Puttur, and was earning Rs.5,000/- per month, which was being contributed to the family. In those circumstances, they filed the present claim petition.

8. The respondent-Corporation resisted the claim by contending that there was no negligence on the part of the driver of the offending bus. It was further contended that the deceased drove the motorcycle at high speed in a zigzag manner and dashed against the bus. It was also stated that the deceased did not possess a valid driving licence, and therefore, the respondent is not liable

to pay compensation as claimed. It was further contended that the crime was registered only to fasten liability on the respondent-Corporation in collusion with the insurer of the motorcycle. It was also contended that the claim petition is bad for non-joinder of necessary party, inasmuch as the insurer of the motor cycle was not arrayed as respondent. Inter alia, the respondent also denied the age and income of the deceased. With the above pleadings, the respondent prayed to dismiss the claim petition.

9. In order to prove the case of the petitioners, the mother of the deceased was examined as P.W.1, and one N. Parasuram, the eye-witness, was examined as P.W.2. They also filed documentary evidence, which were marked as Exs.A1 to A7. On the other hand, the respondent examined N. Govindaiah, the driver of the offending bus, as R.W.1 and did not mark any documentary evidence.

10. Considering the oral and documentary evidence put forth by the parties, the Tribunal, by the order under challenge, awarded an amount of Rs.11,10,000/- as compensation together with interest @ 7.5% per annum from the date of the petition till the date of realization. Aggrieved by the quantum of compensation awarded by the Tribunal, the present appeal is filed by the respondent/APSRTC.

11. Heard Sri Aravala Rama Rao, learned counsel for the appellant, and Ms. Nandini, representing Sri O. Uday Kumar, learned counsel for the respondents/claimants.

12. Perused the record.

13. The learned counsel for the appellant would submit that the accident occurred due to the rash and negligent driving of the deceased himself. In order to prove the said contention, the driver of the offending bus was examined as R.W.1. A perusal of the evidence of R.W.1 would show that he has deposed on similar lines to that of the counter affidavit filed by the respondent-Corporation. Therefore, the evidence of R.W.1 does not help the Corporation to establish that the accident occurred due to the rash and negligent driving of the deceased.

14. On the other hand, the mother of the deceased was examined as P.W.1, who deposed in tune with the averments made in the claim petition. However, her evidence cannot be relied upon to decide the issue of negligence. The petitioners also examined one Sri N. Parasuram as P.W.2, who was eye-witness to the accident.

15. P.W.2 deposed that he was standing by the side of the road at the time of the accident and witnessed the same. He further stated that the driver of the offending bus drove the vehicle in rash and negligent manner, came in the wrong direction, and dashed against the motorcycle. As a result, the deceased and the pillion rider fell on the road, and the deceased died on the spot.

16. The petitioners lodged complaint with the police, which was registered, and after investigation, charge sheet was filed in C.C. No.103 of 2013 on the file of the Judicial Magistrate of First Class, Puttur. Copy of the charge sheet

was filed before the Tribunal, which was marked as Ex.A2. A perusal of the contents of the charge sheet show that the accident occurred due to the negligence of the driver of the offending bus.

17. As already noted supra, in order to disprove the oral and documentary evidence placed by the petitioners, the respondent has neither adduced any evidence nor produced any documentary evidence. In such circumstances, it can be held that the accident occurred due to the negligence of the driver of the offending bus. Therefore, the contention of the learned counsel for the appellant in this regard is liable to be rejected.

18. In view of the above findings, the contention of the appellant with regard to contributory negligence alleged against the deceased cannot be countenanced and is accordingly rejected.

19. Once it is held that there is no negligence on the part of the deceased, the question of impleading the insurer of the motorcycle as party respondent does not arise. Therefore, the contention that the claim petition is liable to be dismissed for non-joinder of a necessary party cannot be accepted.

20. It was further contended by the learned counsel for the appellant that the Tribunal erred in fixing the income of the deceased at Rs.10,000/- per month and awarding compensation of Rs.11,10,000/- under various conventional heads. It is contended that the deceased was not an earning member and no material was placed on record to show that he was earning Rs.5,000/- per month by undertaking part-time work.

21. On the other hand, the learned counsel for the respondents would submit that the Tribunal, having considered the fact that the deceased was a 1st year Engineering student at Sri Siddhartha Engineering College, Puttur, fixed the income as Rs.10,000/- per month. However, it is further submitted that the Tribunal did not award any amount under the head of consortium to the petitioners and requests this Court to award compensation under the said head.

22. Admittedly, the deceased was studying 1st year Engineering and was aged about 22 years as on the date of the accident. Taking the same into consideration, the Tribunal fixed the notional income of the deceased at Rs.10,000/- per month. It is pertinent to note that had the deceased not met with the accident, he would have secured employment and taken care of his parents, especially during their old age. The Tribunal, after following the guidelines laid down in ***National Insurance Company Limited vs. Pranay Sethi and others***, awarded compensation. However, while awarding compensation, no amount was granted under the head of consortium.

23. The learned counsel for the appellant does not dispute the same.

24. In view of the above, this Court is not inclined to interfere with the order of the Tribunal insofar as fixing the income of the deceased at Rs.10,000/- per month. However, as contended by the learned counsel for the respondents, the Tribunal did not award any amount under the head of consortium to the petitioners.

25. Therefore, the compensation payable to the petitioners is computed as per the following table:

Description of the head	Amount entitled in Rupees
Net Annual Income	Rs. 10,000x12=1,20,000/-
Future Prospects (at the age of 22 years)	Rs. 48,000 (i.e., 40% of the income)
Total Income	Rs. 1,68,000/-
Deduction towards personal expenditure (i.e., 50%)	Rs. 84,000/-
Total annual loss of dependency	Rs. 84,000/-
Multiplier of 18 for the age 22 years	Rs. 15,12,000/- (84,000x18)
Conventional heads	
1. Loss of consortium (2 claimants)	Rs.80,000/- (40,000x2)
2. Loss of Estate	Rs. 15,000/-
3. Funeral expenses	Rs. 15,000/-
Total compensation	Rs. 16,22,000/-

26. For the foregoing reasons, this Court does not find any merit in the present appeal and accordingly, the Motor Accident Civil Miscellaneous Appeal dismissed. However, the respondent is directed to pay the enhanced compensation together with interest @ 7.5% per annum from the date of the petition till the date of realization. There shall be no order as to costs.

As a sequel, all pending miscellaneous petitions, if any, shall stand closed.

JUSTICE T.C.D. SEKHAR

Dt: 30.04.2026
PNS