



**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: 217/2023

Between:

1. THE GENERAL MANAGER, APSRTC, AMARAVATHI, VIJAYAWADA,
ANDH-A PRADESH. PRESENTLY VICE CHAIRMAN AND
MANAGING DIRECTOR, RTC HOUSE, PNBS COMPLEX,
VIJAYAWADA.

...APPELLANT

AND

1. S CHANDRASEKAR T CHANDRASEKAR, S/O T. SIVAIAH, AGED
ABOUT 25 YEARS, HINDU, NOW DEPENDENT, RESIDING AT D.NO.
32-1, NETHAJI NAGAR, BANGARUPALEM VILLAGE, POST AND
MANDAL, CHITTOOR DISTRICT.

2. M GOVINDAPPA, , S/O M. VASARAYAPPA, AGED ABOUT 42
YEARS, HINDU, DRIVER OF APSRTC BUS BARING NO. AP-03-Z-
5087, GOLLACHEEMARAPALLI POST, BAIREDDIPALLI MANADAL,
CHITTOOR 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 the
order and decree dated 30/04/2021 passed in MVOP No. 96 of 2017 On the
file of the Principal Motor Accidents Climes Tribunal, Chittoor to 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 299 days in filing the appeal against M.V.O.P No. 96 of 2017, dated 30/04/2021 on the file of Motor Accidents Claims Tribunal Principal District Judge, Chittoor 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 30/04/2021 passed in M.V.O.P No. 96 of 2017 on the file of Motor Accidents Claims Tribunal Principal District Judge, Chittoor and pass

Counsel for the Appellant:

1.ARAVALA RAMA RAO(SC FOR APSRTC KKAC)

Counsel for the Respondent(S):

1.K SRINIVAS

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 30.04.2021 passed in M.V.O.P.No.96 of 2017 by the learned Chairman, Principal Motor Accidents Claims' Tribunal, Chittoor, wherein the Tribunal awarded compensation of Rs.9,27,600/- (Rupees Nine Lakhs Twenty Seven Thousand Six Hundred only) to the petitioner/respondent No.1 herein, as against the claim of Rs.10,00,000/-, for the injuries sustained by him in a motor accident that occurred on 25.10.2015.

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 25.10.2015, while the petitioner/injured was proceeding on a motorcycle bearing No.AP03-BE-4481 from his house to M.V. Giri Bus Stop to collect labour charges, the 1st respondent, while driving the APSRTC bus bearing No.AP03-Z-5087 in a rash and negligent manner and attempting to overtake a lorry, dashed against the petitioner's motorcycle, resulting in grievous injuries to his right leg and other parts of the body. Immediately after the accident, one M.Manjunath of Thagguvaripalli shifted the petitioner to Government Hospital, Bangarupalem, and thereafter, for better treatment, he was shifted to SVRR Hospital, Tirupati. On the basis of a complaint lodged by the petitioner's father, Bangarupalem Police registered a case in Crime No.139 of 2015 against the 1st respondent and, after investigation, filed a

charge sheet for the offence punishable under Section 338 IPC in C.C.No.591 of 2015 on the file of the III Additional Judicial Magistrate of First Class, Chittoor.

b) It was contended by the petitioner that, at the time of the accident, the petitioner was aged about 25 years and was working as a painter, earning Rs.400/- per day. Due to the accident, his right leg was amputated, rendering him incapable of continuing his avocation as a painter, which requires prolonged standing. It is also contended that he became permanently disabled and dependent on his aged parents for his livelihood. The District Medical Board, Government Hospital, Chittoor, issued a disability certificate assessing permanent disability at 70%. Therefore, both respondents are jointly and severally liable to pay compensation.

04. Before the Tribunal, the 1st remained remained ex parte.

05. The 2nd respondent/APSRTC filed a counter denying the allegations made in the claim petition. It was contended that the compensation claimed is excessive and exorbitant. According to the 2nd respondent, the accident occurred solely due to the rash and negligent riding of the petitioner himself. It was pleaded that while the APSRTC bus was proceeding slowly and overtaking a lorry, the petitioner, riding the motorcycle at high speed and in a negligent manner, dashed against the left rear wheel of the bus and sustained injuries. It was further contended that the owner and insurer of the motorcycle were necessary parties and non-impleadment thereof renders the petition bad

for non-joinder of necessary parties. The occupation and income of the petitioner were also denied.

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

“1. Whether the accident in question was occurred due to rash and negligent driving of the driver of APSRTC us bearing registration No.AP03-Z-5087?

2. Whether the petitioner is entitled for any compensation, and if so, to what amount and from whom?

3. To what relief?”

07. On behalf of the petitioner, P.W.s 1 to 4 were examined and Exs.A1 to A4 and Ex.X1 were marked. On behalf of the 2nd respondent, 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 as follows:

“In the result, the petition is partly allowed with proportionate costs, awarding compensation of Rs.9,27,600/-, by holding that the respondents 1 and 2 are jointly and severally liable to pay the compensation, and directing the 2nd respondent, who is the owner of the APSRTC Bus bearing registration No.AP03-Z-5087, to deposit the above said compensation amount within one month from the date of award with interest at 7.5% per annum, from the date of petition, till realization, and on such deposit, the petitioner is entitled to withdraw a sum of Rs.6,00,000/- and the rest of the compensation amount with up-to-date interest and costs shall be deposited in any Nationalized Bank for a period of 1 ½ years and soon-

after the maturity period, the petitioner is entitled to withdraw the rest of the compensation amount with accrued interest. The fee of the advocate is fixed as Rs.5,000/-."

09. Aggrieved by the said Award, the APSRTC preferred the present appeal, contending that the Tribunal erred in appreciating the evidence on record and in holding that the accident occurred due to the negligent driving of the driver of the APSRTC bus bearing No. AP03-Z-5087. It is contended that the petitioner, while riding the motorcycle bearing No. AP03-BE-4481 in a rash and negligent manner and at a high speed, dashed against the left rear wheel of the bus due to his own negligence, which was noticed by the driver of the bus.

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

11. Now the point for consideration is:

Whether the order of the Tribunal needs any interference?

POINT:

12. On a perusal of the impugned Award, it can be observed that the injured examined himself as P.W.1 and, in support of his case, marked Exs.A1 to A4. He categorically deposed that, on 25.10.2015, while he was proceeding on a motorcycle bearing No. AP03-BE-4481 from his house to MV Giri Bus Stop to collect the labour amount, the 1st respondent, while driving the bus belonging to the 2nd respondent in an attempt to overtake a lorry, hit the petitioner and

caused injuries to his right leg and other parts of the body. Immediately thereafter, one M. Manjunath of Thagguvaripalli shifted him to the Government Hospital, Bangarupalem. After the first aid, he was shifted to SVRR Hospital, Tirupati, for better treatment. During the course of treatment, his left leg was amputated, and he remained an inpatient for one month; thereafter, he was bedridden for three months. Based on a complaint lodged by his father, a case was registered against the 1st respondent, and after thorough investigation, a charge sheet was filed against the 1st respondent, i.e., the driver of the bus, for the offence punishable under Section 338 IPC. Considering the evidence of P.W.1 coupled with Ex.A1/FIR and Ex.A3/copy of the charge sheet, the Tribunal answered Issue No.1 in favour of the petitioner, holding that the accident occurred due to the rash and negligent driving of the 1st respondent.

13. Now coming to the quantum of compensation, as per the evidence of P.W.1, he was aged about 25 years and was working as a painter, earning Rs.400/- per day. In support of his income, he examined P.W.2, who categorically deposed that, prior to the accident, the petitioner was carrying on painting work by engaging some workers as a contractor and that P.W.2 was working under him as a painter. He further stated that the petitioner used to earn Rs.400/- per day as a labourer. The Tribunal, considering the wages payable under the Minimum Wages Act as on the date of the accident, i.e., in the year 2015, assessed the income of the petitioner at Rs.200/- per day, which amounts to Rs.6,000/- per month. After applying the appropriate

multiplier applicable to the age group of 21 to 25 years, i.e., '18', the loss of earnings would come to Rs.12,96,000/-.

14. The petitioner, in order to establish that he sustained grievous injuries and that his leg was amputated due to the said accident, examined P.Ws.3 and 4/doctors and also marked Ex.A4/disability certificate issued by the District Medical Board, Chittoor. As per Ex.A4, the petitioner sustained 70% permanent disability on account of amputation of the right leg below the knee. In support of the disability certificate, P.W.3, one of the members of the Medical Board that issued Ex.A4, examined himself and deposed that he had examined the petitioner and issued Ex.A4 assessing the permanent disability at 70% due to the amputation of the right leg below the knee. The petitioner also examined P.W.4, who has been working as an Associate Professor in the Department of Orthopaedics, S.V. Medical College and Hospital, Tirupati, since 2005. He categorically deposed that, on 25.10.2015, he examined the petitioner in connection with the road traffic accident and provided treatment. Through him, Ex.X1/case sheet was marked.

15. However, it is to be noted that though the petitioner examined P.W.3, who was one of the members of the Medical Board that issued Ex.A4/disability certificate assessing the disability at 70%, the Tribunal erroneously considered the disability only 60% 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.¹, the disability assessed by a competent Medical Board ought not to be reassessed in the absence of cogent reasons. Therefore, in the present case, the disability ought to have been taken at 70% as recorded in Ex.A4, which is duly supported by the evidence of P.Ws.3 and 4. If the same is considered, the loss of earnings would come to Rs.9,07,200/- (Rs.12,96,000 × 70%).

16. Apart from the above, the Tribunal also awarded Rs.1,20,000/- towards two grievous injuries, Rs.15,000/- towards extra nourishment, and Rs.15,000/- towards transportation expenses.

17. 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 earnings	Rs.7,77,600/-	Rs.9,07,200/-
Compensation for two grievous injuries	Rs.1,20,000/-	Rs.1,20,000/-
Extra-nourishment	Rs.15,000/-	Rs.15,000/-
Transport expenses	Rs.15,000/-	Rs.15,000/-
Total	Rs.9,27,600/-	Rs.10,57,200/-

18. The present appeal has been preferred by the APSRTC. Even though, it is an appeal filed by the Corporation, this Court can enhance the

¹ 2025 Supreme (SC) 305

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**"².

23. In the result, M.A.C.M.A.No.217 of 2023 is dismissed, However, the compensation awarded by the learned Chairman, Principal Motor Accidents Claims' Tribunal, Chittoor, vide order dated 30.04.2021 passed in M.V.O.P.No.96 of 2017 is enhanced from Rs.9.27,600/- to Rs.10,57,200/-, with interest as ordered by the Tribunal. The compensation shall be paid to the claimant in the same manner and ratio as ordered by the Tribunal. The claimant is directed to pay the deficit court fee on the enhanced amount before the Tribunal. On such payment of court fee, the claimant is entitled to withdraw the compensation amount. No costs.

Pending miscellaneous applications, if any, shall stand closed.

JUSTICE V. SUJATHA

Date: 27.04.2026
KGR

² SCC OnLine SC 1312