

APHC010272082023



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

[3333]

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

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 254/2023

Between:

1. APSRTC, REP. BY ITS MANAGING DIRECTOR, BUS BHAVAN, VICE CHAIRMAN AND MANAGING DIRECTOR, VIJAYAWADA, KRISHNA DISTRICT.

...APPELLANT

AND

1. IMADAABATTHUNI NAGA MANI, W/O EDUKONDALU, AGED 36 YEARS, R/O NEAR KUCHIPUDI KALAKSHETHRAM, KUCHIPUDI VILLAGE, MOVVA MANDAL, KRISHNA DISTRICT.
2. IMADAABATTHUNI JAHNAVI, D/O EDUKONDALU, AGED 20 YEARS, R/O NEAR KUCHIPUDI KALAKSHETHRAM, KUCHIPUDI VILLAGE, MOVVA NLANDAL, KRISHNA DISTRICT.
3. IMADAABATTHUNI DEEPAK, S/O EDUKONDALU, AGED 17 YEARS, MINOR BEING REP. BY HIS MOTHER/1ST RESPONDENT, IMADAABATTHUNI NAGAMANI, R/O NEAR KUCHIPUDI KALAKSHETHRAM, KUCHIPUDI VILLAGE, MOVVA MANDAL, KRISHNA DISTRICT.
4. CH PRASAD, S/O VENKATESWARA RAO, AGED 40 YEARS, RTC DRIVER, GOVERNORPET-2. DEPOT, VIJAYAWADA, R/O GOTTAPUVAI STREET, GUDIVADA, KRISHNA DISTRICT. (R4 IS

NOT A NECESSARY PARTY)

5.IMADAABATTHUNI VENKAYAMMA, W/O VENKATA SWAMY(LATE),
AGED 65YEARS, R/O HNO. 43-138-8, SIVALAYAM STREET, SINGH
NAGAR, VIJAYAWADA, KRISHNA DISTRICT.

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Courtpleased to set aside Decree and Order dated 19.12.2022 passed in M.V.O.P No. 430 of 2016 on the file of Motor Vehicles Accidents Claims Tribunal cum IX Addl. District Judge, Krishna, Machilipatnam and consequently dismiss the claim Petition 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 operation of Decree and Order dated 19.12.2022 passed in M.V.O.P No. 430 of 2016 on the file of Motor Vehicles Accidents Claims Tribunal cum IX Addl. District Judge, Krishna, Machilipatnam and pass

Counsel for the Appellant:

1.ARAVALA RAMA RAO(SC FOR APSRTC KKAC)

Counsel for the Respondent(S):

1.

The Court made the following:

JUDGMENT:-

The appellant/respondent No.2/APSRTC filed this appeal challenging the order dated 19.12.2022 passed by the learned Motor Accidents Claims Tribunal – cum – IX Additional District and Sessions Judge, Krishna, Machilipatnam in M.V.O.P.No.430 of 2016 whereby, the Tribunal awarded a sum of Rs.10,96,251/- to respondent Nos.1 to 3/claimants as compensation.

2. For the sake of convenience, the parties are referred to as they are arrayed before the Tribunal.

3. The claimant Nos.1 to 3 are the wife and children of one Imadaabatthuni Edukondalu (hereinafter referred to as 'deceased'). The 1st respondent is the driver of the bus bearing No.AP 11 Z 7531 belonging to the 2nd respondent corporation and respondent No.3 is the mother of the deceased. It is the case of the claimants that on 13.05.2016, during noon, after completion of duty, at about 03.00 p.m., the deceased was riding his motorcycle bearing No.AP 16 DF 6057 at BRTS road, Madhura Nagar Junction along with the 2nd claimant, at that point of time, he turned his vehicle to extreme right side with turn indicators, at the same time, the 1st respondent who was driving the bus bearing No.AP 11 Z 7531 in a rash and negligent manner, hit the deceased, due to which, he fell down and sustained several injuries all over the body. Immediately, he was shifted to Government hospital, Vijayawada and subsequently to NRI hospital, Mangalagiri for better treatment, where he succumbed to injuries on 19.05.2016. The incident was reported to police and a case has been registered against the 1st respondent in Crime No.119 of 2016 on the file of Suryaraopet Police Station for the offence punishable under Section 304A of the Indian Penal Code. It is the case of the claimants that the

deceased, aged about 44 years, was a lorry driver and used to earn Rs.20,000/- per month in addition to Rs.100/- batta per day. Seeking compensation of Rs.20,00,000/- for the death of the deceased, the claimants filed the claim petition before the Tribunal.

4. Respondent Nos.1 and 3 remained exparte. The 2nd respondent contested the claim petition by filing a written statement contending that on the date of accident, when the bus reached Madhuranagar junction bus stop, as there were no passengers either to get down or board the bus, the 1st respondent drove the bus in a cautious manner; at that juncture, the deceased was riding his motorcycle parallel to the bus in rash and negligent manner and hit the bus, lost control over his motorcycle due to which he fell down of his own negligence. There is no mistake on the part of the 1st respondent driver and as such, the 2nd respondent is not liable to pay compensation to the claimants.

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

- 1) *Whether the 1st respondent drover the APSRTC Bus bearing No.AP11 Z 7531 in a rash and negligent manner at the time and place of pleaded accident in which the deceased by name ImadaabatthuniEdukondalu succumbed to injuries?*
- 2) *Whether the petitioners are entitled to get any amount as compensation from the respondents?*
- 3) *If so, to how much amount?*
- 4) *To what relief?*

6. During the course of trial, P.Ws.1 to 5 were examined and Exs.A1 to A10 were marked on behalf of the claimants; though no documentary evidence was filed by the respondents, the 1st respondent was examined as R.W.1.

7. The Tribunal, after considering all the facts and material available before it, came to the conclusion that the accident occurred due to the rash and negligent driving of the 1st respondent which also led to death of the deceased and held respondent Nos.1 and 2 jointly and severally liable to pay the compensation amount of Rs.10,96,251/-. Aggrieved by the same, the respondent No.2 filed the present motor accident civil miscellaneous appeal on the ground that the deceased succumbed to injuries caused due to his own negligence; that the Tribunal ought not to have considered the monthly income of the deceased as Rs.6,000/- in the absence of any documentary evidence.

8. Heard Sri. Aravala Rama Rao, learned Standing Counsel for the appellant/APSRTC.

9. Perused the entire material available on record. It can be seen from the record that the 1st claimant, who is the wife of the deceased, was examined as P.W.1 wherein, she narrated the entire incident, however, she is not an eyewitness to the accident. However, the 2nd claimant who was examined as P.W.2 was an eyewitness as she accompanied the deceased at the time of accident. P.W.2 categorically deposed that deceased succumbed to injuries sustained by him in the accident occurred on 13.05.2016 due to the rash and negligent driving of the 1st respondent. Even otherwise, Ex.A1 – FIR filed against the 1st respondent and Ex.A6 – MVI report are clear insofar as the negligence on the part of the driver of the bus is concerned. Furthermore, though P.Ws.1 and 2 were cross examined by the respondents, nothing adverse was elicited. Thus, viewed in any angle, the accident occurred due to the rash and negligent driving of the 1st respondent alone. Even the Tribunal, relying upon the evidence of P.Ws.1 and 2 coupled with Exs.A1 to A10 answered

issue No.1 by holding that the accident occurred due to the rash and negligent driving of the 1st respondent and that there is no negligence on the part of the deceased. The view taken by the Tribunal with regard to this issue is just and reasonable.

10. Now, coming to the quantum of compensation, the claimants got examined the employer of the deceased as P.W.4, who deposed that he owns six to seven lorries and has employed two drivers and two cleaners amongst whom, deceased was one who used to be paid Rs.20,000/- per month apart from Rs.200/- batta. When P.W.4 was cross examined, he admitted that there is no document to prove that the deceased was his employee. In the absence of any documentary evidence to prove that the deceased was earning Rs.20,000/- per month, the Tribunal considered the notional monthly income of the deceased as Rs.6,000/-, which in the considered opinion of this Court is on reasonable basis as a lorry driver could have earned such amount in the year 2016. Relying on the inquest report and postmortem certificate, the Tribunal considered the age of the deceased as 44 for which age group, the relevant multiplier as per **Sarla Verma and Ors. Vs. Delhi Transport Corporation and another**¹ is '14'.

11. The annual income of the deceased becomes Rs.72,000/- [Rs.6,000/- X 12] and 25% of the same has to be added towards future prospects of the deceased, thus the amount would be Rs.90,000/- [Rs.72,000/- + 25% of Rs.72,000/-]. Admittedly, the claimants (three in number) and the 3rd respondent (mother of the deceased) are dependents on the deceased, as such, 1/4th of the annual income should be deducted towards personal and living expenses; the amount thus

¹AIR 2009 SCC3104

computed is Rs.67,500/- [Rs.90,000/- / 4]. After applying relevant multiplier, the amount of compensation under the head of loss of dependency is Rs.9,45,000/- [Rs.67,500/- X 14]. In addition, the Tribunal awarded Rs.15,000/- towards funeral expenses, Rs.40,000/- towards loss of consortium and Rs.15,000/- towards loss of estate. Apart from these, the claimants have filed medical bills (Ex.A7) incurred by them towards the deceased from the date of accident till his death amounting to Rs.81,251/-. Relying on the evidence of P.W.5 – G. Rajasekhar the Tribunal has awarded Rs.81,251/- to the claimants towards medical expenses, which indeed have to be reimbursed to the claimants.

12. In total, the Tribunal has awarded Rs.10,96,251/- [Rs.9,45,000/- + Rs.15,000/- + Rs.40,000/- + Rs.15,000/- + Rs.81,251/-] and directed respondent Nos.1 and 2 to jointly pay the same to the claimants. This Court finds no wrong in the impugned order dated 19.12.2022 passed by the learned Motor Accidents Claims Tribunal – cum – IX Additional District and Sessions Judge, Krishna, Machilipatnam as the awarded compensation is neither excess nor deficit and thus, this appeal is liable to be dismissed.

13. Accordingly, this appeal is dismissed. There shall be no order as to costs.

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

JUSTICE V. SUJATHA

Date:20.04.2026.

Gss