

APHC010321932022



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

[3333]

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

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 231/2022

Between:

1.M/S UNITED INSURANCE COMPANY LIMITED, REPRESENTED BY
ITS DIVISIONAL MANAGER, SRIKAKULAM

...APPELLANT

AND

1.BONGU APPALANAIDU, S/O ADINARAYANA, HINDU, AGED ABOUT
32 YEARS, RESIDING AT NAIDUVALASA VILLAGE,
RAMACHANDRAPURAM MANDL, VIJAYANAGARM DISTRICT.
(PETITIONER)

2.GAMIDI VENKATA RAMANA, S/O LATE BALLAYYA, HINDU, 48
YEARS, DRIVER OF LORRY, JUWALAPALEM,
SRUNGAPUVARIVEETHI, TADEPALLIGUDEM, WEST GODAVARI
DISTRICT (RESPONDENT NO.1)

3.YEGGINA SHIVA KUMAR, S/O LATE VENKATESWARARAO, 45
YEARS, HINDU, OWNER OF LORRY, D. NO. 12-5-4-1,
KOBBARITHOTA, TADEPALLIGUDEM, WEST GODAVARI DISTRICT

...RESPONDENT(S):

Appeal filed under Order 41 of CPC praying that the Highcourt may be
pleased toappellants begs to prefer this memorandum of appeal being
aggrieved by the decree and judgement passed in MVOP 92/2018 dated 07-

04-2022 on the file of motor vehicle accident claims tribunal cum II additional district judge, parvathipuram

IA NO: 1 OF 2022

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 all further proceedings in the award/order dated 07-04-2022 in mVOP 92/2018 on the file of motor vehicles accident claims tribunal cum II additional district judge, parvathipuram pending disposal of the above appeal in the interest of justice and pass.

Counsel for the Appellant:

1.RAMA MOHAN RAO KOTHA

Counsel for the Respondent(S):

1.G SAI NARAYANA RAO

The Court made the following:

JUDGMENT:-

This appeal is filed by the appellant – Insurance company challenging the award dated 07.04.2022 passed by the Motor Vehicles Accidents Claims Tribunal – cum – II Additional District Judge, Parvathipuram in M.V.O.P.No.92 of 2018 filed by the respondent No.1/claimant seeking compensation of Rs.10,00,000/- for the injuries sustained by him due to the accident that occurred on 18.11.2017 at Marrivalasa village junction, Ramabhadrapuram mandal, Vizianagaram district.

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

3. The claimant is the injured, the 1st respondent is the driver and the 2nd respondent is the owner of the lorry bearing No.AP37W1999. The 3rd respondent is the insurance company. On 18.11.2017, at about 09.30 a.m., while the claimant was going to his duty on his motorcycle bearing No.AP35M6314, near Marrivalasa village, the 1st respondent drove the lorry in question from Rajam towards Ramabhadrapuram in a rash and negligent manner and dashed against the petitioner's motorcycle, resulting in his fall on the road and sustained injuries. Immediately, the claimant was shifted to Sri Sai Super specialty hospital, Vizianagaram where he underwent treatment from 18.01.2017 to 29.11.2017. The incident was reported to the Station House Officer, Ramabhadrapuram Police Station and a case was registered in Crime No.328 of 2017 under Section 338 of the Indian Penal Code. It is the case of the claimant that he used to work as a Field man in NCS sugars, Latchayyapeta village, Sitanagaram mandal, Vizianagaram district and that he used to earn Rs.4,500/- per month besides earning Rs.1,000/- towards petrol

allowance. Thus, he filed an application before the Tribunal claiming compensation of Rs.10,00,000/-.

3. The respondent Nos.1 and 2 remained *exparte*. The 3rd respondent contested the claim by filing a counter affidavit duly contending that the 1st respondent was not having a valid driving license and that the 2nd respondent has not complied with the statutory provision under Section 134 (c) of Motor Vehicles Act. Thus requested the Tribunal to dismiss the claim petition.

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

- 1) *Whether the accident occurred resulting in injuries to the petitioner, is due to rash and negligent driving of the lorry bearing No.AP37W1999 by its driver-R.1?*
- 2) *Whether the petitioner is entitled for compensation, if so, at what quantum and from whom?*
- 3) *To what relief?*

5. During the course of trial, in support of his case, the claimant got examined himself as P.W.1 and one Dr. A. Sriramamurthy as P.W.2. He got marked Exs.A1 to A8. On behalf of the respondents, Ex.B1 was marked, but no oral evidence was adduced.

6. The Tribunal, after considering the totality of the proved facts and also on the touchstone of the various principles laid down by the Courts, awarded an amount of Rs.10,00,000/- [Rs.50,000/- under the head of pain and suffering, Rs.50,000/- under the head of transport to hospital, medicines and extra-nourishment and Rs.9,00,000/- under the head of loss of earnings during the period of treatment, future earnings

and permanent disability] to the claimant. Challenging the same, the 3rd respondent – insurance company, filed the present appeal.

7. Heard Sri. Kotha Rama Mohan Rao, learned Standing Counsel for the appellant and Sri. G. Sai Narayana Rao, learned counsel for the respondent No.1.

8. During the course of arguments, learned counsel for the appellant/respondent No.3 strenuously contended that the Tribunal, while awarding an amount of Rs.9,00,000/- under the head of loss of earnings, future earnings and for permanent disability, did not specify on what basis it has arrived at such a figure and that the same is without proper assessment. Hence, learned counsel for the appellant requested this Court to set-aside the impugned award passed by the Tribunal.

9. On the other hand, learned counsel for the 1st respondent/claimant supported the award passed by the Tribunal in all aspects and contended that as a result of the accident that took place on 18.11.2017, he sustained (i) crushes injury of right hand fracture of 4.5 meta corpus bones and the finger, (ii) fracture of right thumbs, (iii) fracture of middle and index fingers (Meta corporal) fracture. He further contended that on 19.11.2017, the 4th and 5th right hand fingers of the claimant got amputated and that he was discharged on 29.11.2017; that on clinical examination, P.W.2 – the doctor who treated the injured assessed his disability at 30% of permanent in nature. As such, learned counsel contended that the compensation awarded by the Tribunal is just and proper and that the same need not be intervened by this Court. Hence requested to dismiss the appeal.

10. Perused the entire material available on record. Undisputedly, the claimant met with an accident on 18.11.2017 and sustained several injuries. To prove such injuries, the claimant relied on Ex.A.2 – wound certificate and got examined the doctor who treated him and issued Ex.A.2. It can be seen from the record that immediately after the accident, the claimant was admitted in Sri Sai Super Specialty Hospital, Vizianagaram on 18.11.2017 where the 4th and 5th right hand fingers were amputated on 19.11.2017. The claimant was discharged on 29.11.2017 and the claimant's disability was assessed at 30%. Due to the said disability the claimant could not do his normal duty as he used to do prior to the accident. It can also be observed from the impugned judgment that the learned Judge who passed the judgment observed the claimant entering the Court by limping with the help of his wife. Observing thus, the Tribunal has rightly concluded that the claimant sustained injuries and suffered due to the accident that occurred on 18.11.2017. Relying on the evidence of the claimant – P.W.1 coupled with Exs.A1 and A4 (FIR and Charge Sheet), the Tribunal has rightly answered issue No.1 in favour of the claimant by holding that the accident occurred due to the rash and negligent driving of the 1st respondent. With regard to the ground raised by the 3rd respondent that the 1st respondent was not holding a valid license, this Court takes the same view as that of the Tribunal that the respondent No.3 could not prove the same by coming forward with any cogent material in support of the said contention.

11. While dealing with quantum of compensation, the Tribunal had observed that the claimant used to earn Rs.4,500/- per month besides Rs.1,000/- towards petrol allowance, but it failed to ascertain as to how it has assessed the compensation of Rs.9,00,000/- under the head of loss

of earnings, future earnings and permanent disability without there being any calculation or reasoning. Apart from that, the Tribunal awarded Rs.50,000/- towards pain and suffering and Rs.50,000/- towards transport to hospital, medicines and extra-nourishment. Without there being any discussion with regard to such calculation, the Tribunal has straightaway computed the amount of compensation as Rs.10,00,000/-, which is arbitrary.

12. It is affirmed that the claimant used to earn Rs.4,500/- per month and in addition, he used to earn Rs.1,000/- towards petrol allowance. Considering the total income of the claimant as Rs.5,500/-, the annual income of the claimant would be Rs.66,000/- and as the claimant is aged about 32 years as on the date of accident, the suitable multiplier that would be applicable as per the judgment of **Sarla Verma and Ors. Vs. Delhi Transport Corporation and another¹**, is '16' and the amount thus computed would be Rs.10,56,000/- [Rs.60,000/- X '16']. Admittedly, as per Ex.A.2, the disability of the claimant is assessed as 30%. Thus, the compensation under the head of loss of future earnings and permanent disability is Rs.3,16,800/- [Rs.10,56,000/- X 30/100]. Admittedly, the claimant was injured and got admitted in hospital for a period of ten days, in such a case, he must have lost his earnings for the said month; thus, this Court is inclined to award Rs.5,500/- towards loss of earnings for a period of one month. Further, the claimant would have undergone considerable pain and suffering as a consequence of the injuries sustained in the accident. Taking into account the nature of injuries, particularly the amputation of the 4th and 5th fingers of his right hand, this Court is of the view that the amount awarded by the Tribunal under the

¹ AIR 2009 SCC3104

head of pain and suffering requires enhancement. Accordingly, a sum of Rs.1,00,000/- is awarded under the head of pain and suffering instead of Rs.50,000/- as granted by the Tribunal. In addition, the Tribunal has only awarded Rs.50,000/- for transport charges, medicines and for extra-nourishment; along with the same, the attendants of the claimants would have incurred some extra miscellaneous expenditure. Thus, this Court feels it appropriate to enhance the compensation awarded by the Tribunal under the head of transport charges, medicines and extra-nourishment to Rs.1,00,000/-.

13. In view of the foregoing discussion, the compensation awarded by the Tribunal under different heads and amounts would now become as under:

S. No	Head of the claim	Compensation awarded by the Tribunal in Rs.	Amounts now altered by this Court
1.	Towards pain and suffering	Rs.50,000/-	Rs.1,00,000/-
2.	Towards loss of earnings during the period of treatment, future earnings and permanent disability	Rs.9,00,000/-	Rs.3,16,800/- (towards loss of future earnings and permanent disability) + Rs.5,500/- (towards loss of earnings during the period of treatment)
3.	Towards transport charges, medicines and extranourishment	Rs.50,000/-	Rs.1,00,000/-
	Total	Rs.10,00,000/-	Rs.5,22,300/-

14. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal is altered to Rs.5,22,300/-. There shall be no order as to costs.

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

JUSTICE V. SUJATHA

Date:17.02.2026.

Gss