



**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: 466/2021

Between:

1.AP STATE ROAD TRANSPORT CORP, REP. BY ITS MANAGING
DIRECTOR, RTC HOUSE, VIJAYAWADA.

...APPELLANT

AND

1.DOMADA SATISH, S/O NAGESWARA RAO, AGED 28 YEARS, OCC.
NIL, R/O HNO. 8-127, PANDULAMMA GUDI VEEDHI,
SRIRANGAPATNAM VILLAGE, KORUKONDA MANDAL, EAST
GODAVARI DISTRICT.

2.DOMADA NAGALAKSHMI, W/O SATISH, AGED 26 YEARS, OCC.
HOUSE WIFE, R/O HNO. 8-127, PANDULAMMA GUDI VEEDHI,
SRIRANGAPATNAM VILLAGE, KORUKONDA MANDAL, EAST
GODAVARI DISTRICT.

3.KARAM BULLI DORA, S/O GANGARAJU DORA, AGED 45 YEARS,
OCC. DRIVER OF APSRTC BUS BEARING NO. AP 07 Z 0166, R/O
HNO. 1-60, BANDAPALLI THADIVADA, RAMPACHODAVARAM,
EAST GODAVARI DISTRICT.

...RESPONDENT(S):

Appeal filed under Order 41 of CPC praying that the Highcourt may be
pleased toto set aside Order and Decree dated 22.03.2021 passed in M.V.O.P
No. 389 of 2018 on the file of VIII Addl. District and Sessions Court cum Spl.
Court For Trial Of Offences Against Women cum VIII Addl. District Judge,
Rajamahendravaram and consequently dismiss the claim Petition and pass

IA NO: 1 OF 2021

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 order and decree dated 22.03.2021 in MVOP No. 389 of 2018 on the file of the learned VIII Addl. District and Sessions Court cum Spl. Court For Trial Of Offences Against Women cum VIII Addl. District Judge, Rajamahendravaram and to pass

IA NO: 2 OF 2021

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 vacate the interim stay granted on 9-09-2021 in I.A.No.1 of 2021 in MACMA No.466 of 2021 on the file of this Hon'ble Court by permitting the Petitioners to withdraw the amount deposited by the Respondent/APSRTC herein and pass such other order

Counsel for the Appellant:

1.K SRINIVASA PRASAD SC For APSRTC

Counsel for the Respondent(S):

1.MOHSIN BIN HUSSAIN

2.HARINATH REDDY SOMA

The Court made the following:

JUDGMENT:

The APSRTC filed the present appeal, aggrieved by the order and decree dated 22.03.2021 passed in M.V.O.P.No.389 of 2018 by the learned VIII Additional District and Sessions Judge, Rajamahendravaram-cum-Special Judge for Trial of Offences against Women-cum-VIII Additional Motor Accidents Claims Tribunal, East Godavari, Rajamahendravaram, whereby and whereunder the Tribunal awarded compensation of Rs.11,27,488/- (Rupees Eleven Lakhs Twenty Seven Thousand Four Hundred and Eighty Eight Only) to the petitioners/respondent Nos.1 and 2 herein on account of the death of the deceased, Domada Annapurna, in a motor accident that occurred on 02.10.2018. Though the claimants had filed the claim petition seeking compensation of Rs.8,00,000/-, the Tribunal, applying the principle of just compensation, awarded a total amount of Rs.11,27,488/-.

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:

The 1st petitioner is the son of the 2nd petitioner and the 2nd petitioner is the daughter-in-law of the deceased. The husband of the deceased had predeceased her. On 04.10.2018 at about 07:30 p.m., the APSRTC bus bearing registration No.AP 07 Z 0166, driven by respondent No.1 in a rash and negligent manner, dashed against the auto bearing registration No.AP 05 TN 0913 near Teluvarikurudu, on the outskirts of Kapavaram Village,

Korukonda Mandal, East Godavari District. The deceased, who was travelling in the said auto rickshaw, sustained severe injuries and succumbed to them on 05.10.2018 at the Government Hospital, Rajamahendravaram.

04. The petitioners contended that the deceased was hale and healthy, aged about 45 years, working as a cook earning Rs.15,000/- per month, and contributing the same to her family. The petitioners also spent an amount of Rs.25,000/- towards funeral expenses. Hence, they sought compensation of Rs.8,00,000/- from the respondents.

05. The 2nd respondent/APSRTC filed a counter denying the averments of the petition and contended that on 04.10.2018, while the 1st respondent was driving the APSRTC bus slowly and carefully, the auto bearing No.AP 05 TN 0913 came at high speed from the opposite direction and attempted to overtake another vehicle. On noticing the auto, the bus driver applied sudden brakes, but the auto driver lost control and hit the right side bumper of the bus. It was further contended that the accident occurred due to the rash and negligent driving of the auto driver. The respondent also denied the payment of Rs.25,000/- towards funeral expenses. It was further contended that the owner and insurer of the auto are necessary parties and that the petition is bad for non-joinder of necessary parties, and therefore prays to dismiss the petition.

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

- “1. Whether the accident occurred on 04.10.2018 at about 07.30 PM., due to rash and negligent driving and with high speed of the 1st respondent driver while driving the RTC bus bearing No.AP 07 Z 0166?*
- 2. Whether the said accident occurred and the 1st respondent driver due to his rash and negligent driving and with high speed reached the place of accident at Telivarikurudu outskirts of Kapavaram Village and dashed against the deceased Domada Annapurna and subsequently she died due to the injuries received in the accident?*
- 3. Whether on 04-10-2018 the 1st respondent as a driver of APSRTC bus bearing No.AP 07 Z 0166 started at Gokavaram to go to Rajahmundry by driving the bus very slowly, carefully and on the extreme left side of the road and came near Telivarikurudu of Kapavaram village about the 06-50 P.M., and by that time the auto rickshaw bearing No.AP 05 TN 0913 driving by its driver in a rash and negligent manner without blowing horn came in opposite direction and tried to overtake a bike which is going in front of the auto and came on wrong side and on observing the auto the 1st respondent applied sudden breaks and stopped bus and whether the driver of the auto was dashed on the right side bumper of the bus and therefore whether the above accident occurred only due to the rash and negligent driving on the part of the deceased driver and with High speed of auto bearing No.AP 05 TN 0913?*
- 4. Whether the petitioner incurred Rs.25,000/- towards funeral expenses?*
- 5. Whether the petitioners are entitled for loss of estate and loss of dependency to a tune of Rs.7,50,000/-?*
- 6. Whether the owner insurer of the auto bearing No.AP05 TN are necessary and proper parties and so the petitioner is bad for non-joinder of necessary and proper parties?*
- 7. Whether the petitions are entitled to compensation as prayed for. If so, what extent and against whom?*
- 8. To what relief?”*

07. On behalf of the petitioners/claimants, P.W.1 to P.W.3 were examined and Exs.A1 to A5 were marked. On behalf of the respondents, the 1st respondent /driver of the APSRTC bus examined himself as RW.1. No documents were marked on behalf of the respondents.

08. After hearing both parties and considering the oral and documentary evidence on record, the Tribunal allowed the claim petition with interest and costs against respondent Nos.1 and 2, and awarded compensation of Rs.11,27,488/- with interest at 7.5% per annum from the date of the petition till the date of deposit. The petitioners were directed to pay the D.C.F., if any, on the just compensation amount. The respondent Nos.1 and 2 were directed to deposit the said amount within two months from the date of the order. On such deposit, Petitioner No.1 was awarded Rs.5,00,000/-, out of which he was permitted to withdraw Rs.2,50,000/- along with costs and interest and the remaining Rs.2,50,000/- was directed to be kept in a fixed deposits in any Nationalized Bank in his name for a period of one year. Petitioner No.2 was awarded an amount of Rs.6,27,488/-, out of which she was permitted to withdraw Rs.3,27,488/- with costs and accrued interest and the remaining balance of Rs.3,00,000/- was directed to be deposited in a Nationalized Bank in her name for a period of one year.

09. Aggrieved by the said award, the 2nd respondent/APSRTC preferred the present appeal contending that the Tribunal failed to consider that the accident occurred due to the rash and negligent driving of the auto driver and

that there was contributory negligence on the part of the auto driver. It was further contended that in absence of proof of income, the Tribunal ought not to have fixed the income of the deceased at Rs.8,340/- per month. As per the decision in Sarla Verma's case, in the absence of proof of income, the income of the deceased should be taken as Rs.3,000/- per month. It was therefore contended that the compensation awarded by the Tribunal is excessive and therefore, prayed to allow the appeal.

10. Heard the learned Standing Counsel for the appellant/APSRTC and Mr.Harinath Reddy, learned counsel for the claimants.

11. Now the point for consideration is:

Whether the order of the Tribunal needs any interference?

POINT:

12. On a perusal of impugned award, the Tribunal, relying upon the oral evidence of PWs 1 to 3 as well as Exs.A1 to A5, came to the conclusion that the accident occurred due to the rash and negligence driving of the offending vehicle by the 1st respondent on 04.10.2018. Ex.A1- attested copy of F.I.R. and Ex.A5- certified copy of charge sheet also support the same. Though respondent No.1, driver of the APSRTC bus, examined himself as R.W.1 and deposed that he did not drive the bus in a rash and negligent manner and that the accident occurred due to the negligence of the auto driver, the fact remains that he did not file written statement. Even otherwise, such a self-

serving statement of the driver cannot be taken into consideration in the absence of any other corroborative evidence. In view of the above reasons, it is clear that the accident occurred solely due to the negligence of the driver of the APSRTC bus only. Therefore, the finding recorded by the Tribunal in this regard requires no interference.

13. So far as the quantum of compensation is concerned, though the petitioners claimed that the deceased was working as a cook and earning Rs.15,000/- per month, no documentary evidence was produced to substantiate the said income of the deceased. In the absence of such evidence, the Tribunal relied upon the proceedings issued by the District Collector, East Godavari at Kakinada for the year 2013–14, wherein the wages of skilled and unskilled labour were notified. As per the said proceedings, the deceased was treated as an unskilled labour and the daily wage was fixed at Rs.278/-. Accordingly, the monthly income was assessed at Rs.8,340/- (Rs.278 x 30 days), which, in the opinion of this Court, is just and reasonable. Following the guidelines laid down by the Hon'ble Apex Court in **Sarla Verma v. Delhi Transport Corporation**¹, upon deducting 1/3rd of the income of the deceased towards her personal expenditure, her contribution to the family was calculated at Rs.2,780/- per month towards personal expenses, the contribution to the family comes to Rs.5,560/- per month (Rs.8,340 - Rs.2,780). Thus, the annual contribution to the dependents was Rs.66,720/- (Rs.5,560 x 12). Applying the relevant multiplier of '14' for the age of the deceased, i.e., 45

¹ 2009 ACJ 1298

years as per Exs.A2/inquest report and Ex.A3/P.M. report, the loss of dependency comes to Rs.9,34,080/- (Rs.66,720/- x 14). In addition thereto, the petitioners are entitled to compensation under the conventional heads i.e., Rs.50,000/- towards loss of consortium, Rs.93,408/- towards future prospects (Rs.9,34,080 X 10%), Rs.25,000/- towards funeral expenses and Rs.25,000/- towards loss of estate. Thus, the Tribunal awarded a total compensation of Rs.11,27,488/- to the petitioners. Though the claimants had filed the claim petition seeking compensation of Rs.8,00,000/- only with subsequent interest and costs, the Tribunal relying upon the decision of the Hon'ble Apex Court in ***Sanobanu Nazirbhai Mirza and others vs. Ahmedabad Municipal Transport Service***², wherein it was held that it is the statutory duty of the Tribunal to award just and reasonable compensation even if the amount exceeds the claim made by the claimants, awarded Rs.11,27,488/-. In the considered opinion of this Court, the compensation awarded by the Tribunal is just and reasonable. Therefore, the order passed by the Tribunal does not suffer from any infirmity and requires no interference in this civil miscellaneous appeal. The point is answered accordingly.

14. In the result, the M.A.C.M.A. is dismissed. No costs.

Pending miscellaneous applications, if any, shall stand closed.

JUSTICE V. SUJATHA

Date: 17.02.2026
KGR

² 2013 ACJ 2733