



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

[3505]

FRIDAY, THE FIRST DAY OF MAY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 1054/2019

Between:

1. ORIENTAL INSURANCE COMPANY LTD, LIMITED REP BY ITS
DIVISIONAL MANAGER, INNEPETA, RAJAMAHENDRAVARAM.

...APPELLANT

AND

1. SANYASIMMA, W/O LATE RAJABBAI AGED 48 YEARS, HINDU.
OCC. HOUSEWIFE. R/O D.NO.5-79, HARIJANAPETA, VELANKA
VILLAGE, KIRLAMPUDI MANDAL. EAST GODAVARI DISTRICT

2. RAJALA CHINNATHALLI, W/O SRINU AGED 30 YEARS, HINDU,
OCC. HOUSEWIFE, R/O D.NO.5-79, HARIJANAPETA, VELANKA
VILLAGE, KIRLAMPUDI MANDAL, EAST GODAVARI DISTRICT.

3. KANDELLI SRINUBABU, S/O LATE RAJABBAI AGED 27 YEARS,
HINDU, OCC. NIL, R/O D.NO.5-79, HARIJANAPETA, VELANKA
VILLAGE, KIRLAMPUDI MANDAL, EAST GODAVARI DISTRICT

4. KANDELLI GOURI LAKSHMI, D/O LATE RAJABBAI AGED 24 YEARS,
HINDU, OCC. HOUSEWIFE, R/O D.NO.5-79, HARIJANAPETA,
VELANKA VILLAGE, KIRLAMPUDI MANDAL, EAST GODAVARI
DISTRICT

5. MURREY SANJIV ANJI, S/O.SURYA RAO, HINDU, AGE 24 YEARS,
DRIVER OF TRACTOR BEARING REGISTRATION NO.AP-05-BL-
6432 CUM TRAILER BEARING REGISTRATION NO.AP-05-Y-4709
R/O D.NO.47-121, DHARMAVARAM VILLAGE, NEAR VETERINARY
HOSPITAL, PRATHIPADU MANDAL, EAST GODAVARI DISTRICT.

- 6.DODDIPATLA RAMA RAO, S/O KRISHNA MURTHY, HINDU, AGE 60 YEARS, OWNER OF TRACTOR BEARING REGISTRATION NO.AP-05-BL-6432 CUM TRAILER BEARING REGISTRATION NO.AP-05-Y-4709 R/O D.NC.47-121, DHARMAVARAM VILLAGE, NEAR VETERINARY HOSPITAL, PRATHIPADU MANDAL, EAST GODAVARI DISTRICT.
- 7.BACHALA SURIBABU, S/O SESHAIAH, HINDU, AGED 54 YEARS, DRIVER OF MAXI CAB BEARING REGISTRATION NO.AP-05-TC-3658, R/O D.NO.5-2, HARIJANAPETA, VELANKA VILLAGE, KIRLAMPUDI MANDAL, EAST GODAVARI DISTRICT
- 8.BACHALA MANIKANTA, S/O SURIBABU, HINDU, AGED 26 YEARS, OWNER OF MAXI CAB BEARING REGISTRATION NO.AP-05-TC-3658, R/O D.NO.5-2, HARIJANAPETA, VELANKA VILLAGE, KIRLAMPUDI MANDAL, EAST GODAVARI DISTRICT
- 9.NATIONAL INSURANCE COMPANY LIMITED, REPRESENTED BY DIVISIONAL MANAGER, KAKINADA, EAST GODAVARI DISTRICT

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Courtpleased to allow this appeal by setting aside the Decree and Order dated 01.05.2019 passed in M.V.O.P.No. 884 of 2017 on the file of the Motor Vehicles Accident Claims Tribunal-Cum-1 Additional District Judge East Godavari at Rajamahendravaram filed by the Respondent Nos.1 to 4/Claim petitioners against the Appellant herein/ Respondent No.3 and pass

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 grant stay of all further proceedings dated 01.05.2019 passed in M.V.O.P.No. 884 of 2017 on the file of the Motor Vehicles Accident Claims Tribunal-Cum-1 Additional District Judge, East Godavari at Rajamahendravaram including execution proceedings and pass

Counsel for the Appellant:

1.A JAYANTHI

Counsel for the Respondent(S):

1.T D PANI KUMAR

2.V VEERABHADRA CHARY

The Court made the following Judgment:

The present Appeal is filed, aggrieved by order, dated 01.05.2019, in M.V.O.P.No.884 of 2017 on the file of Motor Accidents Claims Tribunal Cum I Additional District & Sessions Court, East Godavari at Rajamahendravaram by Oriental Insurance Company.

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

3. The petitioners approached the Tribunal by filing a petition, under Section 166 of Motor Vehicles Act, claiming compensation of Rs.7,00,000/-, on account of death of one Sri Kandella Rajaabbai, who succumbed to injuries in the accident that occurred, on 03.05.2016, in which the Tractor cum Trailer bearing registration Nos. AP 05 BL 6432 & AP 05 Y 4709 respectively, were involved.

4. It was the case of the petitioners that, on 03.05.2016, the deceased Sri Kandella Rajaabbai, boarded Maxi Cab bearing registration No.AP 05 TC 3658 so as to attend coolie works, when the Maxi Cab was proceeding towards Dharmavaram, the offending Tractor cum Trailer came in opposite direction in rash and negligent manner, driven by the 4th respondent and dashed the Maxi Cab. As a result of which, the wooden logs carried by the Trailer fell on the Maxi Cab, thereby, the inmates of the Maxi Cab, sustained severe injuries and the deceased died on the spot. A case in Crime No.59 of 2016 was registered under Section 304-A I.P.C., on the file of Prathipadu

Police Station. It was further case of the petitioners that the deceased was hale and healthy and aged about 54 years as on the date of accident. It was further stated that the deceased was earning Rs.500/- to 600/- per day, by engaging in coolie works, and at an average he used to earn Rs.12,000/- per month. The entire earnings of the deceased were being contributed to the family and in view of the sudden demise of the deceased, the petitioners lost their financial support, love and affection of the deceased. The deceased was the husband of the first petitioner and petitioners 2 to 4 are the children of the deceased.

5. The respondents 1 & 2 remained *ex parte*. The 3rd respondent/appellant filed a counter-affidavit, denying all the averments made in the claim petition. It was further denied the manner in which the accident said to have been occurred. The 3rd respondent further denied the age and occupation, including the income of the deceased. It was further stated that the driver of the offending Tractor had no valid driving license, and as such, the 3rd respondent, is not entitled to pay compensation. It was further contended that the Maxi Cab was proceeding with over load of passengers and the driver of the offending Tractor was not responsible for occurrence of the accident. It was further stated that the compensation claimed by the petitioners was excessive and prayed to dismiss the claim petition.

6. The respondents 4 & 5 i.e., owner and driver of the Maxi Cab remained *ex parte*.

7. The 6th respondent – insurer of the Maxi Cab filed counter-affidavit, stating that the offending Tractor cum Trailer was responsible for the occurrence of the accident. It was further stated that there was no contributory negligence on the part of the driver of the Maxi Cab, as such, if at all any compensation was to be paid, the liability has to be fixed on the 3rd respondent – Oriental Insurance Company. It was further contended that the respondents 4 to 6 were arrayed as formal parties to the claim petition, as such, they are not liable to pay any compensation in as much as the negligence was on the part of the driver of the Tractor cum Trailer.

8. In order to prove the case of the petitioners, the son of the deceased was examined as P.W.1 and daughter namely Smt. Rajala Chinnatalli was examined as P.W.2. The petitioners have also filed documentary evidence and the same were marked as Exs.A1 to A11. An employee of the 3rd respondent - Oriental Insurance Company, was examined as R.W.1 and marked a copy of the policy in Ex.B.1. Considering the oral and documentary evidence put forth by the parties, the Tribunal, by order, under challenge, awarded compensation of Rs.5,98,000/-, under various heads.

9. Aggrieved by the quantum of compensation awarded by the Tribunal, the Oriental Insurance Company approached this Court, by way of the present Appeal.

10. Heard Smt. A. Jayanthi, the learned counsel appearing for the appellant, Sri T. D. Pani Kumar, the learned counsel appearing on behalf of

the respondents 1 to 4 and Sri V. Veerabhadra Chary, the learned counsel appearing for the 9th respondent. Despite service of notice, there is no appearance for the respondents 5 to 8.

11. Perused the material available on record.

12. The learned counsel appearing for the 3rd respondent/appellant would submit that the Tribunal was erred in fixing the negligence on the part of the driver of the offending Tractor cum Trailer without properly appreciating the evidence placed before the Tribunal. He would further submit that, there was contributory negligence on the part of the driver of the Maxi Cab and the same was not at all considered by the Tribunal. In this context, it is pertinent to note that to substantiate the contention of the 3rd respondent/appellant, one Sri Ch. N. Meerasaheb, employee of the Oriental Insurance Company was examined as R.W.1. A perusal of the evidence of R.W.1, would go to show that he deposed, in relation to the terms and conditions of the insurance policy and the liability of the insurance company. In such circumstances, the evidence of R.W.1, will not help the appellant to prove that there was negligence on the part of the driver of the Maxi Cab. On contrary, the petitioners have filed copies of F.I.R. and the charge sheet which were marked as Exs.A1 & A5. A perusal of the contents of the said documents would clearly show that the accident was occurred due to the negligence of the driver of the Tractor cum Trailer. Further, it is to be noted that if there was negligence on the part of the driver of the Maxi Cab, nothing prevented the

driver and owner of the Tractor cum Trailer to give complaint against the driver of the Maxi Cab. Admittedly, in the case on hand, no such complaint was given. In such circumstances, it can be held that the accident was occurred due to the negligence of the driver of Tractor cum Trailer.

13. Accordingly, the contention of the 3rd respondent/appellant in this regard is liable to be rejected.

14. The learned counsel appearing for the 3rd respondent/appellant would further submit that as on the date of accident, the driver of the Maxi Cab had no valid driving license. In this regard, the 3rd respondent/appellant – Oriental Insurance Company, except making a bald allegation in the counter-affidavit, nothing is placed on record to substantiate the same. On the other hand, the petitioners have filed copy of the driving license issued in favour of the 4th respondent, the driver of the Maxi Cab and the same was marked as Ex.A9. Therefore, contention of the learned counsel appearing for the 3rd respondent/appellant, in this regard, is without any merit or substance and the same is accordingly rejected.

15. Coming to the quantum of compensation awarded by the Tribunal, it was the specific case of the petitioners that the deceased was coolie by avocation and was earning Rs.500 to 600 per day, and at an average he used to earn Rs.12,000/- per month. To substantiate the same, the son and the daughter of the deceased were examined as P.W.s 1 & 2 and on perusal of the evidence of P.W.s 1 & 2, would go to show that the deceased was coolie.

Though the 3rd respondent – Oriental Insurance Company disputed the same, and despite cross-examining P.W.s 1 & 2, at length nothing was elicited to disprove their evidence. By taking into consideration all the averments made in the claim petitioner and appreciating the evidence of P.W.s 1 & 2, the Tribunal had fixed the income of the deceased as Rs.6,000/- per month and accordingly, awarded compensation of Rs.5,98,000/- under various heads. Though the learned counsel appearing for the 3rd respondent/appellant, contended that, the compensation was excessive, this Court does not find any force in the said submission made by the learned counsel for the 3rd respondent/appellant in as much as the average income of the coolie during the year, 2016, would be around Rs.200/- per day. In such circumstances, it cannot be said that the compensation awarded by the Tribunal was excessive.

16. Be that as it may, during the course of hearing, the learned counsel appearing for the claimants would submit that, the Tribunal did not adhere to the directions issued by the Hon'ble Apex Court in the case of ***National Insurance Company Limited Vs. Pranay Sethi & Ors.***¹ while awarding compensation, in as much as an amount of Rs.40,000/- was granted under the head of consortium, and the Tribunal did not award any compensation under the head of future prospects. In such circumstances, in order to award just compensation in favour of the claimants, this Court undertakes the exercise of computation of compensation and the same is computed as under:

¹ (2017) 16 SCC 680

Description of the head	Amount entitled in Rupees
Net Annual Income	Rs.6,000x12=Rs.72,000/-
Future prospects (at the age of 54 years)	Rs.7,200 (i.e.,10% of the income)
Total income	Rs.79,200/-
Deduction towards personal expenditure (i.e., 1/3 rd)	Rs.26,400/-
Total annual loss of dependency	Rs.52,800/-
Multiplier of 11 for the age 54 years	Rs.5,80,800/- (52,800x11)
Conventional heads	
1. Loss of consortium (3 claimants)	Rs.1,20,000/- (40,000x3)
2. Loss of estate	Rs.15,000/-
3. Funeral expenses	Rs.15,000/-
Total compensation	Rs.7,30,800/-

17. For the foregoing reasons, this Court does not find any merit in the present Appeal and accordingly, the same is dismissed. Further, as indicated above, the compensation awarded by the Tribunal was not in consonance with the judgment of the Hon'ble Apex Court as referred *supra* and the respondents are directed to pay an amount of Rs.7,30,800/- together with interest @ 7.5% per annum from the date of petition till the date of realization, within a period of two (02) months from the date of receipt of this copy.

There shall be no order as to costs.

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

JUSTICE T. C. D.SEKHAR

Date:01.05.2026
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THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

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