



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

[3548]

MONDAY, THE SIXTEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

**THE HONOURABLE SRI JUSTICE TUHIN KUMAR GEDELA
MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 714/2017**

Between:

1. APSRTC AND ANOTHER, REPRESENTED BY DEPOT MANAGER, MADDILAPALEM. VISAKHAPATNAM.
2. A.P.S.R.T.C., REP. BY ITS CHAIRMAN & MANAGING DIRECTOR. HYDERABAD, NOW AT VIJAYAWADA.

...APPELLANT(S)

AND

1. SMT BORA KONDAMMA 4 OTHERS, W/O LATE GURU NAIDU. AGED ABOUT 34 YEARS, HOUSE WIFE RESIDENT OF D. NO. 10-50-69/12, SANOSHIMATHA COLONY, NEAR CIRCUIT HOUSE RESERVOIR, VISAKHAPATNAM.
2. KUM BORA RAMA, D/O LATE GURU NAIDU, AGED ABOUT 15 YEARS, RESIDENT OF D.NO. 10-50-69/12, SANOSHIMATHA COLONY. NEAR CIRCUIT HOUSE RESERVOIR, VISAKHAPATNAM.
3. KUM BORA LATHA, D/O LATE GURU NAIDU AGED ABOUT 12 YEARS. RESIDENT OF D. NO. 10-50-69/12. SANOSHIMATHA COLONY, NEAR CIRCUIT HOUSE RESERVOIR, VISAKHAPATNAM.
4. SMT BORA DURGAMMA, W/O RAMULU, AGED ABOUT 60 YEARS. HOUSE WIFE RESIDENT OF, D.NO. 10-50-69/12, SANOSHIMATHA COLONY. NEAR CIRCUIT HOUSE RESERVOIR, VISAKHAPATNAM. (RESPONDENTS 2 & 3 BEING MINORS REP. BY THEIR MOTHER, AND NATURAL GUARDIAN SMT BORA KONDAMMA
5. G UMAPATHI, S/O APPALA SWAMY DRIVER OF APSRTC BUS, RESIDING AT 44-38-12, SRINIVASA NAGAR, VISAKHAPATNAM

...RESPONDENT(S):

Appeal filed under Order 41 of CPC praying that the High Court may be pleased to allow the appeal by setting aside the Judgment and Decree passed by Chairman. Motor Accidents Claims Tribunal: (VII Additional District and Sessions Judge, Visakhapatnam passed in MVOP No. 1115 of 2015 dated 7.9.2016 and pass

IA NO: 1 OF 2017(MACMAMP 1558 OF 2017)

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 condone the delay of 32 days in filing the Appeal against the Judgment and decree passed by Chairman, Motor Accidents Claims Tribunal (VII Additional

District and Sessions Judge, Visakhapatnam passed in MVOP No. 1115 of 2015 dated 7-9-2016 and pass

IA NO: 2 OF 2017(MACMAMP 1559 OF 2017)

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 execution of decree passed by Chairman Motor Accidents Claims Tribunal (VII Additional District and Sessions Judge, Visakhapatnam passed in MVOP No. 1115 of 2015 dated 7-9-2016, pending disposal of the above MACMA No. of 2016 and pass

IA NO: 1 OF 2025

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 may be pleased to Declare petitioners 2 and 3, Kum. Bora Rama and Kum. Bora Latha, as majors, having attained majority on 05.12.2020 and 21.06.2023, respectively by Permitting petitioners 2 and 3 to withdraw their apportioned shares from the 50% compensation amount of Rs. 6,30,625/- deposited pursuant to the order dated 28.03.2017 in IA 2/2017 (MACMAMP 1559/2017), along with accrued interest, lying to the credit of M.V.O.P. No. 1115 of 2015 and Pass

IA NO: 2 OF 2025

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 Permit the petitioners herein to withdraw the compensation amount deposited to the credit of M.V.O.P. No. 1115 of 2015 on the file of the Motor Accidents Claims Tribunal (VII Addl. District Judge), Visakhapatnam of compensation along with accrued interest as awarded in M.V.O.P. No. 1115 of 2015 on the file of the Motor Accidents Claims Tribunal-cum-VII Additional District Judge (FTC), Visakhapatnam and Pass

Counsel for the Appellant(S):

1.K SRINIVASA PRASAD SC For APSRTC

Counsel for the Respondent(S):

1.PALLA BALU ANIL KUMAR

The Court made the following:

JUDGMENT:

Heard,

Sri K.Srinivasa Prasad, learned Standing Counsel for Andhra Pradesh State Road Transport Corporation/appellants, and Sri Palla Balu Anil Kumar, learned counsel for the respondents 1 to 4/claimants.

1. Aggrieved by the Order and Decree, dated 07.09.2016, in M.V.O.P.No.1115 of 2015, passed by the Motor Accidents Claims Tribunal-cum-VII Additional District and Sessions Judge (FTC), Visakhapatnam (hereinafter referred to as "the Tribunal"), the present appeal is filed by the Andhra Pradesh State Road Transport Corporation.

2. The parties are arrayed as mentioned in this appeal.

3. The principal grounds raised by the appellants in filing the present appeal are that the compensation awarded by the Tribunal was abnormal and contrary to the claim of the claimants for Rs.11,00,000/-. The other ground is that the Tribunal has not appreciated the fact that the claimants failed to establish the rash and negligent driving on the part of the driver of the APSRTC bus bearing No.AP11Z2769, which resulted in the death of husband of the 1st respondent on 13.10.2013.

4. The 1st respondent is the wife of the deceased, the respondents 2 and 3 are the daughters of the deceased, who are minors at the time of accident, and the 4th respondent is the mother of the deceased, filed the claim petition.

5. The claim petition was filed under Section 166 of the Motor Vehicles Act, seeking compensation of Rs.11,00,000/-.

6. The brief facts before the Tribunal are that on 13.10.2013 at about 09:45 a.m., while the deceased, Bora Guru Naidu, was waiting at the extreme left side of the road at Singh Hotel Junction and when he was about to cross the road, the crime vehicle, APSRTC bus bearing No.AP11Z2769

which was driven by the driver in a rash and negligent manner with high speed, ignoring the traffic rules, lost his control over the bus and hit the deceased in the same direction, which resulted the death of Bora Guru Naidu, who died on the spot due to head injury. Crime No.250 of 2013 was registered by the Station House Officer, II Town Police Station. The principal contention was that the accident occurred due to rash and negligent driving due to which the claimants are deprived of the earnings of the deceased and due to sudden demise of Bora Guru Naidu, the claimants lost their dependency and his love and affection.

7. Refuting the said contentions, the driver of the crime vehicle filed his counter, denying the allegations and contending that there is no fault on his part and the occurrence of the accident was only due to the drunken state of the deceased or the deceased might have suffered from low BP and fallen under the crime vehicle or might have slipped down under the crime vehicle, as mentioned in Column No.XV of inquest report and nowhere it is mentioned in the said inquest report that the inquestdars came to the conclusion that the accident was occurred due to rash and negligent driving of the driver of the crime vehicle.

8. The 2nd respondent, who is the Managing Director of APSRTC, filed his counter denying the allegations, which was adopted by the 3rd respondent. The principal contention of the 2nd respondent in his counter is that the accident took place not due to the fault of the driver, but due to the contributory negligence of the deceased and that the accident itself is doubtful and the information gathered there from the public was that the accident was occurred due to the deceased being in a drunken state and without observing the vehicle, crossed the road and hit the bus and died. The other contention asserted by the 2nd respondent was that in pursuance of the registration of Crime No.250 of 2013 which was numbered as C.C.No.261 of 2014 was ended in acquittal and thereby requested to dismiss the petition.

9. The Tribunal framed the following issues:
- i. Whether the accident took place due to rash and negligent driving of the driver of Bus bearing No.APRTC11Z2769 resulting in death of the deceased viz., Bora Guru Naidu?
 - ii. Whether the petitioners are entitled for compensation and if so, to what amount and against whom?
 - iii. To what relief?

10. The claimants marked Exs.A1 to A5 and got examined PW1 to PW3 and no documents were marked on behalf of the respondents. Ex.A1 is the attested true copy of FIR dated 13.10.2013, Ex.A2 is the attested true copy of post-mortem certificate dated 25.10.2013, Ex.A3 is the attested true copy of inquest report dated 13.10.2013, Ex.A4 is the attested true copy of charge sheet and Ex.A5 is original salary certificate dated 20.04.2015 (subject to proof and relevancy).

11. In respect of issue No.1, to prove the manner in which the accident occurred, the 1st claimant i.e., the wife of the deceased came to the witness box and got examined as PW1, supported by Exs.A1 to A4. Ex.A2, which is the post-mortem report shows that the concerned Medical Officer, Andhra Medical College, Visakhapatnam, conducted post-mortem over the body of the deceased on 13.10.2013 and opined that the deceased died due to head injury. Ex.A3, inquest report shows that the police conducted inquest over the dead body on 13.10.2013, during which the panchayatdar opined that the death of the deceased was due to accidental injuries. Ex.A4, which is the charge sheet shows that the investigation concluded that the respondent No.1 is solely responsible for the accident in which the deceased died on the spot.

12. Adverting to the evidence of the witnesses, the Tribunal found that PW1 being not an eye witness to the accident, her evidence was disbelieved. PW2, who is an eye witness, to prove the manner in which the accident has occurred, has supported the version of claimants, who stated

that the crime vehicle was driven in a rash and negligent manner without blowing horn and hit the deceased. As a result, he died on the spot which was informed to the family members. He also contends that the driver is solely responsible for the accident. This evidence was accepted by the Tribunal.

13. In rebuttal to the said examination, the respondents got examined RW1. The Tribunal observed that RW1, being an interested witness who naturally supports the case of the respondents, has substantiated the version which he has stated in the counter affidavit filed by him. In the examination, RW1, who is the driver, stated that C.C.No.261 of 2013 in which he was found not guilty and was acquitted, as there is no rash and negligent driving on his part and the said relevant copy was annexed to the counter and that he is not responsible for the accident and thereby not liable to pay the compensation.

14. The Tribunal, while disbelieving the version of RW1, the driver, on the ground that there is a total failure on the part of the respondents to examine any eye-witness supporting their case and not desirable to conclude that the driver has not driven the vehicle in a rash and negligent manner, causing the death of the deceased. The Tribunal finally concluded that the respondents failed to rebut the case of the claimants and answered in favour of the claimants, holding that the driver is sole responsible for the accident resulting in the death of the deceased.

15. Now, coming to issue No.2, the 1st claimant is the wife of the deceased, the claimants 2 and 3 are minor daughters and the 4th claimant is the old aged mother of the deceased and it is not disputed that they are the dependents on the income of the deceased and had no independent source of income and undisputedly the claimants/respondents herein are Class-I legal heirs and dependents of the deceased, and are entitled for compensation towards loss of dependency besides loss of love and affection and also under different heads as per law. In order to calculate the compensation towards loss of dependency, the Tribunal has taken the multiplier method as

envisaged in **Sarla Verma and Others vs. Delhi Transport Corporation and Another**¹, which was upheld in **National Insurance Company Limited vs. Pranay Sethi**² and the multiplier '15' was adopted.

16. The version of the claimants/respondents herein is that the deceased was earning Rs.12,000/- per month as salary, besides Rs.50/- per day as transport allowance, which was seriously disputed by the respondents. To substantiate their claim, they got examined G.Prasad as PW3, who is the owner and sole proprietor of GAR construction and contractors. Ex.A5 is the salary certificate issued by him. Even in the cross-examination, he denied the suggestion made by the respondents that the salary certificate issued by him is not genuine and is fabricated one. The Tribunal, after considering the entire evidence and the work discharged by the deceased, who worked as a Mason from 2010 to 2013, came to the conclusion that the income of the deceased should be assessed at Rs.4,500/- per month.

17. The Tribunal has relied upon the judgment in **Rajesh and others vs. Ranabeer Singh**³, where a three-judge Bench held that the claimants are entitled to 50% of the income towards future prospects if the deceased was below 40 years. In the present case, the deceased was aged about 39 years and self-employed as a Coolie by the date of accident. Therefore, the gross income of the deceased was assessed as Rs.4,500/- + Rs.2,250/- = Rs.6,750/- per month. After deducting 1/4th of the income towards personal expenses, his contribution to the family would come to Rs.5,062.50/- per month and Rs.60,750/- per annum. After applying the multiplier 15, the amount comes to Rs.60,750/- x 12 = Rs.9,11,250/- towards loss of dependency on account of the death of the deceased.

18. In view of the ratio laid down in the judgment referred to above, the Tribunal has held that the 1st claimant, being the wife is entitled for

¹ (2009) 6 SCC 121

² (2017) 16 SCC 680

³ 2013 ACJ 1403 SC

Rs.1,00,000/- towards consortium. The claimants 2 and 3 being minors (at the time of accident) and the old aged mother are entitled for compensation of Rs.50,000/- each, totaling Rs.1,50,000/- towards loss of love and affection of the deceased. The Tribunal has also awarded compensation of Rs.1,00,000/- @ Rs.25,000/- each towards transport charges, loss of expectancy of life, loss of estate and funeral charges, and all put together, the total compensation awarded to the claimants/respondents herein is Rs.9,11,250/- + Rs.1,00,000/- + Rs.1,50,000/- + Rs.1,00,000/- = Rs.12,61,250/- for the death of the deceased.

19. The Tribunal has also taken note of the fact that the claim of the claimants in the petition was Rs.11,00,000/-, but keeping in view the ratio laid down by the Hon'ble Supreme Court, the Tribunal assessed the compensation at Rs.12,61,250/-. The Tribunal justified itself saying that, in order to grant just and reasonable compensation, the Tribunal enhanced the compensation according to the facts and circumstances of the case. The claimants were also directed to pay the deficit court fee on the enhanced compensation. The Tribunal, while apportioning the liability has held that the appellants/respondents 2 and 3, representing APSRTC, are vicariously liable for the negligent act and are liable to pay the compensation.

20. In sum, the total compensation awarded by the Tribunal, along with interest @ 7.5% per annum from the date of petition till realization, is in favour of the claimants.

21. Learned Standing Counsel for the appellants would vehemently contend that the Tribunal has not taken into consideration the contentions raised in the counter-affidavit and the evidence adduced by the respondents and only relied upon the statement of PW2 and awarded the compensation. The compensation awarded by the Tribunal is excessive and contrary to the claim of the claimants in the petition, and the Tribunal has no jurisdiction to grant compensation beyond the relief claimed in the petition.

22. In oppugnation to the said argument, learned counsel for the claimants addressed the Court that the Tribunal is well within the jurisdiction to award 'Just Compensation' even in the event the claimants failed to claim the compensation appropriately and is a settled principle and is no more *res integra*.

23. This Court, after going through the facts and circumstances and the order passed by the Tribunal elaborately, is of the opinion that the Order and Decree passed by the Tribunal needs no interference and is well within its jurisdiction and within the four corners of law strictly in consonance with the ratio laid down by the Hon'ble Supreme Court.

24. Resultantly, the Motor Accident Civil Miscellaneous Appeal is dismissed, upholding the Order and Decree, dated 07.09.2016 in M.V.O.P.No.1115 of 2015 passed by the Motor Accidents Claims Tribunal-cum-VII Additional District and Sessions Judge (FTC), Visakhapatnam. There shall be no order as to costs.

25. As a sequel, Interlocutory Applications pending, if any, shall stand closed.

TUHIN KUMAR GEDELA, J

Date : 16-02-2026
BMS