



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

[3333]

THURSDAY, THE 30th DAY OF JULY 2026

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 785/2023

Between:

1. NEW INDIA ASSURANCE COMPANY LIMITED, MUMBAI,
REPRESENTED BY ITS DIVISIONAL MANAGER, G.T. ROAD OPP.
SURYA MAHAL, SRIKAKULAM TOWN AND DISTRICT.

...APPELLANT

AND

1. KOTTALA SUDHAKAR REDDY, S/O LATE VENKATA REDDY, AGED
ABOUT 62 YEARS R/O D.NO- 6-3-37, VIDHYA NAGAR,
AMADALAVALASA TOWN AND MUNICIPALITY IN SRIKAKULAM
DISTRICT OF ANDHRA PRADESH

2. KOTTALA DEVAYANI, W/O BARATAM DURGA PRASAD, AGED
ABOUT 45 YEARS RESIDING AT 1ST LANE OF PURUSHOTHAM
NAGAR COLONY, D.NO- 18-06-19, IN SRIKAKULAM DISTRICT OF
ANDHRA PRADESH

3. KOTTALA USHARANI, W/O PARSI SARATHBABU, AGED ABOUT 36
YEARS, RESIDING AT NEAR BY KALINGA TOWERS AT RIMS
ROAD, BALAGA AREA D.NO. 9-6-25, SRIKAKULAM DISTRICT OF
ANDHRA PRADESH

4. KOTTALA RADHABAI, W/O KARTU ANAND, AGED ABOUT 34
YEARS, RESIDING AT NEAR BY KALINGA TOWERS AT RIMS
ROAD, BALAGA AREA D.NO. 9-6-25 SRIKAKULAM DISTRICT OF
ANDHRA PRADESH

5. SHEIK MOHAMMAD RAFI, S/O MOHAMMAD RUSSIAN, AGED
ABOUT 29 YEARS, D.NO- 17-107-10, REHMATH NAGAR,

ATMAKURU VILLAGE AND MANDAL, KURNOOL DISTRICT, A.P

6.SHEIK MOHAMMAD HUSSAIN, S/O GOUSE, AGED ABOUT 55 YEARS, D.NO- 17-107-10, REHMATH NAGAR, ATMAKURU VILLAGE AND MANDAL, KURNOOL DISTRICT, A.P.

7.ROYAL SUNDARAM GENERAL INSURANCE COMPANY LIMITED, REPRESENTED BY ITS MANAGER, SUBRAMANAYAM BUILDING, 2 FLOOR, NO.1 CLUB HOUSE ROAD, ANNASALAI, CHENNAI -600002.

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Courtpleased to set aside the order passed M.V.O.P.No. 116 of 2016 on the file of the Chairman, Motor Accidents Claims Tribunal -Cum- IV Addl. District Judge, Srikakulam, dated 31st January 2023, 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 condone the delay of 185 days in filing the M.A.C.M.A. against the Judgment and award in M.V.O.P.No. 116 of 2016 on the file of the Chairman, Motor Accidents Claims Tribunal -Cum- IV Addl. District Judge, Srikakulam, dated 31st January 2023, and pass

IA NO: 2 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 the decree and Judgment in M.V.O.P.No. 116 of 2016 on the file of the Chairman, Motor Accidents Claims Tribunal -Cum- IV Addl. District Judge, Srikakulam, dated 31st January 2023, pending disposal of the main C.M.A., and pass

Counsel for the Appellant:

1.PRABHAKARA RAO RANGA

Counsel for the Respondent(S):

1.S SRINIVASA RAO

2.GUDI SRINIVASU

THE HONOURABLE SMT JUSTICE V.SUJATHA

Motor Accident Civil Miscellaneous Appeal No:785 of 2023

The Court made the following Judgment:

This appeal is preferred by New India Assurance Company Limited, assailing the order and decree dated 31.01.2023 passed in M.V.O.P.No.116 of 2016 by the Motor Accidents Claims Tribunal – Cum – Special Judge for Trial of Cases under SCs & STs (POA) Act - Cum – IV Additional District Judge, Srikakulam, whereby and whereunder the Tribunal awarded compensation of Rs.16,22,660/- (Rupees Sixteen Lakhs Twenty Two Thousand Six Hundred and Sixty only), together with interest @ 9% per annum as against the claim of Rs.20,00,000/-, on account of the death of the deceased Kottala Sakkubai in a motor accident that occurred on 25.01.2015.

02. The Appellant is the insurer of the lorry bearing No.AP 21 TX 7786. Respondent Nos.1 to 4 herein are the claimants, husband and daughters of the deceased. Respondent No.5 is the driver of offending lorry, respondent No.6 is its owner and respondent No.7 is the insurer of car.

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

04. The case of the petitioner/claimant, in brief, is as follows:

The petitioners are the legal representatives of the deceased. The deceased was aged about 65 years, hale and healthy and was receiving a monthly pension of Rs.22,439/-. On 25.01.2025, the 1st petitioner, deceased

and 4th petitioner were travelling to Palakollu in a car bearing No. AP 30 AB 4329, when the car reached Tarluvada on NH-23, a lorry bearing No. AP 21 TX 7786, driven by the 1st respondent in a rash and negligent manner, dashed the car. As a result, the driver of the car died on the spot, while the 1st petitioner, deceased and 4th petitioner sustained grievous injuries and were shifted to Manipal Hospital, Visakhapatnam, for treatment. While undergoing treatment, deceased died on 02.02.2015. Based on the complaint lodged by the 1st petitioner, a case in Crime No.16 of 2015 was registered against the driver of the offending lorry.

It is the further case of petitioners that due to the untimely death of deceased, 1st petitioner, who is a heart patient, suffered immense mental agony and petitioner Nos.2 to 4 also suffered distress. Therefore, the respondent Nos.1 to 3, being driver, owner and insurer respectively, are jointly and severally liable to pay compensation.

05. Before the Tribunal, respondent Nos.1 and 2, owner and driver of the offending vehicle respectively, remained *ex parte*.

06. Respondent No.3—Insurance Company filed written statement holding that respondent No.1 was not possessing a valid driving licence and that respondent No.2 had knowingly entrusted the vehicle to him, thereby violating terms of the policy conditions. It was further pleaded that the accident occurred due to the rash and negligent driving of the car driver, who allegedly did not possess a valid driving licence and that the car does not have requisite

documents. According to respondent No.3, the accident was a head-on collision and the petitioners, in collusion with the police, falsely implicated the lorry driver. It was also contended that the claim petition is bad for non-joinder of the owner of the car and that the compensation claimed at Rs.20,00,000/- was excessive and untenable.

07. Respondent No.4–Insurance Company also filed a written statement contending that the police, after investigation, filed a charge sheet only against the driver of the lorry and, therefore, it was not liable to pay compensation. It further pleaded that the car driver did not possess a valid driving licence and that the 1st petitioner had willfully permitted him to drive the vehicle in violation of the policy conditions. The quantum of compensation was also disputed and sought for dismissal of the claim petition.

08. Based on the pleadings, the Tribunal framed the following issues for trial:

“1. Whether the deceased – Kattala Sakkubai, W/o Sudhakara Reddy died on account of injuries sustained by her in the motor vehicle accident that took place on 21.01.2015 at about 5.15 pm., on NH38, at Tarluwada village, within the P.S limits of Anandapuram Traffic Police Station, Visakhapatnam District ? If so, whether the accident took place due to the rash and negligent driving of the lorry, bearing No.AP 21 TX 7786 by its driver ?

2. Whether the petitioners are entitled to claim any compensation for the death of the deceased Kottala Sakkubai, W/o. Sudhakara Reddy? If so, to what amount and from whom?

3. To what relief?”

09. To substantiate their claim, 1st petitioner examined himself as PW.1 and deposed with regard to the nature of the accident categorically stating that the claimants are the legal heirs of the deceased, aged about 65 years, who was a pensioner drawing Rs.22,439/- per month. On 25.01.2015, while travelling in Car bearing No. AP 30 AB 4329, a lorry bearing No. AP 21 TX 7786, driven rashly and negligently by the 1st respondent, dashed the car near Tarluvada on NH-38. The car driver died on the spot, and they were sustained grievous injuries. While undergoing treatment at Manipal Hospital, Visakhapatnam, the deceased died on 02.02.2015 and Exs.A1 to A34 were marked.

10. On behalf of the respondents, Legal Manager of 4th respondent- Insurance Company was examined as RW.1 and Administrative Officer of 3rd respondent – Insurance Company was examined as RW.2. No documents were marked on their behalf.

11. After hearing both parties and after considering the oral and documentary evidence on record, the Tribunal allowed the claim petition by answering Issue Nos.1 and 2 holding that accident was occurred only because of the rash and negligent driving of the 1st respondent which resulted in death of deceased on 02.02.2015 and held that respondent Nos.2 and 3 are jointly and severally liable for the loss arisen out of the said accident.

12. Aggrieved by the said award, the respondent No.3/insurer preferred this appeal contending that the Tribunal erred in fastening the liability on the

appellant despite the accident being a head-on collision and in entertaining the claim without impleading the owner of the car in which the deceased was travelling rather than impleading the insurer of the car/respondent No.4 and the Tribunal failed to deduct the family pension received by the 1st petitioner while computing loss of dependency and deducted 1/4th towards personal expenses by treating married legal representatives as dependents and thus, compensation awarded under various heads is excessive which is contrary to the settled principles laid down by the Hon'ble Supreme Court, and granted interest at 9% per annum instead of 6%, rendering the award excessive. It is, therefore, prayed to allow the appeal.

13. On the other hand, learned counsel for the claimants and respondent No. 7 has supported the impugned award and prayed to dismiss the appeal.

14. Now the point for consideration is:

“Whether the order of the Tribunal needs any interference?”

Point:

15. The 1st claimant, who is the husband of the deceased got examined himself as PW1 and categorically deposed that on 25.01.2015, while he and his wife (deceased) along with 4th petitioner (daughter) were travelling to Palakollu in a car bearing No.AP 30 AB 4329, when the said car reached Tarluvada on NH-38, the lorry bearing No.AP-21-TX-7786, driven by the 1st respondent rashly and negligently, dashed the car bearing No.AP 30 AB 4329;

as a result of the same, the driver of the car died on the spot and petitioner Nos.1 and 4 along with the deceased were shifted to Manipal Hospital, Visakhapatnam as they sustained injuries. PW.1 further deposed that his wife died during the course of treatment on 02.02.2015. PW1 also got marked Exs.A1 to A34. The Tribunal, considering the evidence of PW1 coupled with Exs.A1(FIR) and A2 (charge sheet) filed by the Police after due investigation against the 1st respondent – driver of the lorry bearing No.AP-21-TX-7786, answered issue No.1 holding that the accident occurred due to the rash and negligent driving of the 1st respondent. The said observation of the Tribunal need not be interfered by this Court as the same is on reasonable basis.

16. Coming to the quantum, the evidence of PW1 discloses that the deceased was a retired employee of the Health Department and was drawing a monthly pension of Rs.22,439/-. During cross-examination, PW1, himself has admitted that after the death of deceased, he has been receiving Rs.14,000/- per month as family pension in addition to his own pension of Rs.20,000/- per month, who worked as Radiographer in RIMS Hospital inspite of the same, the Tribunal assessed the loss of income as Rs.22,439/-. Since the deceased had no independent source of income apart from pension, the actual loss suffered by the dependants would be the differential amount, namely Rs.8,439/- per month [Rs.22,439/- (-) Rs.14,000/-]. In this regard, reliance can be placed on the judgment rendered by the Hon'ble Apex Court in the case of **Vishavjit Singh and others Vs. Chalamandalam MS General**

Ins. Co. Ltd. and another¹, wherein the Hon'ble Apex Court at para No.9, had observed as under:-

"The issue with regard to the reduction of the deceased's income from Rs.22,712/- per month to Rs.6,500/- per month, upon scrutiny, appears to be justified. Since, the deceased was a pensioner and there was no evidence of any independent source of income, the High Court has rightly held that the amount being received by the widow as family pension had to be deducted. Accordingly, we find no ground to interfere with the income of the deceased as assessed by the High Court at Rs.6,500/- (Rupees Six Thousand Five Hundred) per month."

In view of the same, the differential monthly loss of income is to be taken as Rs.8,439/- instead of Rs.22,439/-, and as such, the annual loss of income would come to Rs.1,01,268/-.

17. Following the principles laid down by the Hon'ble Apex Court in **Sarla Verma v. Delhi Transport Corporation²** and **National Insurance Company Ltd., vs. Pranay Sethi and others³**, as the deceased was aged 65 years, appropriate multiplier would be "7", as such, loss of dependency would be Rs.7,08,876/- (Rs.1,01,268/- x 7) and thereafter, deducting 1/4th (Rs.7,08,876/- x 1/4 = Rs.1,77,219/-) towards personal and living expenses, loss of dependency would come to Rs.5,31,657/- (Rs.7,08,876/- (-) Rs.1,77,219/-), adding 10% enhancement towards future prospects, loss of

¹ 2025 ACJ 2674

² 2009 ACJ 1298

³ 2017 ACJ 2700

dependency works out to Rs.5,84,823/- [(Rs.5,31,657/- x 10% = Rs.53,165.7/-) $\Rightarrow$ Rs.5,31,657 + Rs.53,165.7/- = Rs.5,84,822.7 ~ Rs.5,84,823/-], the loss of dependency stands modified to Rs.5,84,823/- instead of Rs.14,13,657/-.

18. In light of the judgment in **National Insurance Company Ltd.** (referred 3rd supra), Tribunal awarded Rs.16,500/- towards funeral charges, Rs.16,500/- towards loss of estate, Rs.44,000/- towards spousal consortium and Rs.1,32,000/- towards filial consortium to petitioner Nos.2 to 4, which in the opinion of this Court is just, reasonable and needs no interference.

19. Apart from modification under the head of loss of dependency, all other heads remain same.

20. Thus, to sum up, the amounts awarded by the Tribunal and the amounts granted in the present appeal, in the light of the computations made above, are as follows:

Head	Amount granted by the Tribunal	Amount now awarded by this Court
Loss of dependency	Rs.14,13,657	Rs.5,84,823/-
Funeral Charges	Rs.16,500/-	Rs.16,500/-
Loss of estate	Rs.16,500/-	Rs.16,500/-
Spousal consortium	Rs.44,000/-	Rs.44,000/-
Filial consortium to petitioner Nos.2 to 4 (Rs.44,000 X 3)	Rs.1,32,000/-	Rs.1,32,000/-
Total	Rs.16,22,657/-	Rs.7,93,823/-

21. Accordingly, this appeal is allowed in-part reducing the compensation awarded by the Tribunal from Rs.16,22,657/- to Rs.7,93,823/-. No costs. Miscellaneous applications pending, if any, shall stand closed.

JUSTICE V. SUJATHA

Date:30.07.2026

Ksj