

APHC010430052022



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

[3333]

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

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 323 OF 2022

Between:

1. ANDHRA PRADESH STATE ROAD TRANSPORT CORPORATION,
REP. BY ITS MANAGING DIRECTOR, MUSHEERABAD,
HYDERABAD. (NOW IN RTC BUS STAND COMPLEX, VIJAYAWADA,
KRISHNA DISTRICT). (OWNER OF BUS BEARING NO. AP27 Z 0232)

...APPELLANT

AND

1. VEMULA HANUMANTHA RAO, S/O NARASIMHA RAO, 51 YEARS,
R/O 7TH LINE, A.T. AGRAHARAM, GUNTUR, GUNTUR DISTRICT.

2. V KRISHNA REDDY, S/O SESHU REDDY, R/O MYNAMPADU
VILLAGE, SANTHANUTHALAPADU MANDAL, PRAKASAM
DISTRICT. (DRIVER OF BUS BEARING NO. AP27Z 0232)

...RESPONDENT(S):

Counsel for the Appellant:

1. ARAVALA RAMA RAO (SC FOR APSRTC KKAC)

Counsel for the Respondent(S):

1. B PARAMESWARA RAO

The Court made the following:

THE HONOURABLE SMT JUSTICE V.SUJATHA**MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 323 OF 2022****JUDGMENT:-**

The APSRTC filed the present appeal against the order and decree 16.03.2022 in M.V.O.P.No.271 of 2017 on the file of the Court of the Motor Accidents Claims Tribunal-cum-IV Additional District Judge, Guntur (for brevity 'the Tribunal'), whereby and whereunder the Tribunal granted compensation of Rs.4,77,885/- to the claimant/respondent No.1 herein, as against the claim of Rs.7,50,000/-, for the injuries sustained by him in a motor accident that occurred on 17.10.2016.

2. For the purpose of convenience, the parties will be referred to as they are arrayed before the Tribunal.
3. The case of the petitioner is briefly as follows:

On 17.10.2016 at about 4.45 p.m, while the Petitioner was walking in the NTR Bus Stand, Guntur, the driver of the offending vehicle drove it in a rash and negligent manner, at a fast speed and hit him. The tyre of the offending vehicle ran over his right leg, as a result, he sustained grievous and crush injury to his right foot. Immediately, after the accident, he shifted to Government Hospital, Guntur and later he was shifted to Amar Orthopedic Hospital, Guntur. Subsequently the first finger of right foot was amputated and some portion of his right foot was also badly damaged. The Guntur Traffic Police, registered a case in Crime No.203 of 2016 under Section 337 of IPC. Therefore, the Claimant filed the claim petition.

4. Before the Tribunal, Respondent No.1 alone filed Written Statement denying all material averments made in the claim petition and *inter alia* contended that the offending vehicle was moved was not at all correct, where there is a bus stand premises, the driver of the offending vehicle cannot go without signal/ caution given by the conductor. The accident occurred due to only careless, hurriedness and negligence on the part of the Petitioner and there is no rash and negligence on the part of driver of the offending vehicle. The claim of the Petitioner is excessive and without any basis. The Respondent No.1 is not liable to pay any amount or interest more than 6% p.a as per the guidelines of Reserve Bank of India. Hence, claim petition is liable to be dismissed.

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

“1. Whether the accident occurred due to rash and negligence of driver of APSRTC bus bearing No. AP 27 Z 0232?

2. Whether the petitioner is entitled to compensation for the injuries sustained by him in the accident, if so, to what amount and from whom?

3. To what relief?”

6. On behalf of the claimants, P.Ws.1 and 2 were examined and Exs.A1 to A5 were marked. On behalf of Respondent No.2/APSRTC, R.W.1 was examined and no document was marked.

7. After hearing both parties and after considering the oral and documentary evidence on record, the Tribunal partly allowed the claim petition

against respondent Nos.1 and 2, awarding compensation of Rs.4,77,885/- with subsequent interest @ 7.5% per annum from the date of filing of the petition till the date of realization and directed respondents No.1 and 2 to jointly and severally pay the said amount within one month from the date of the order.

8. Aggrieved by the said award, the Respondents No.1 /APSRTC preferred this appeal contending that the Tribunal failed to consider that the accident occurred solely due to the negligence and carelessness on the part of the Petitioner. It is further contended that the injuries sustained by the Petitioner are minor in nature and that he did not suffer any functional disability. It is further contended that the compensation awarded by the Tribunal is exorbitant and excessive, therefore, prayed to allow the appeal.

9. On the other hand, learned counsel for the Claimant/ Respondent No.1 herein has supported the impugned award and prayed to dismiss the appeal.

10. Now the point for consideration is:

Whether the order of the Tribunal needs any interference?

POINT:

11. The main contention of the learned counsel for the Appellant/ Corporation is that the accident occurred in the bus stand premises, the driver of the offending vehicle cannot go without signal or caution from the conductor. The said accident occurred due to carelessness and negligence on the

part of the Petitioner. In the bus stand, there is no chance to drive in a rash and negligent manner.

12. In support of their case, the respondent No.1/claimant relied on Ex.A1 copy of the FIR; Ex.A2 copy of the Wound Certificate and Ex.A3 copy of Charge. From the recitals of Ex.A1 to A3, it appears that the accident occurred only due to negligence on the part of the Respondent No.2 as held by learned Tribunal.

13. Coming to the Issues Nos. 2 and 3, the Tribunal relied on catena of decision of various High Courts and also Hon'ble Apex Court and determined the loss of earnings of the injured with reference to extent of his permanent disablement and relied on evidence of PW-2, who is treated the PW-1 in Amar Orthopedic Hospital, Guntur, who stated that Exs.A2, A4 and A5 were issued by their hospital at the time of discharge of fixing of implants to the PW-1 and assessed permanent disability of 25% to 30%. However, the Tribunal held that the Petitioner did not produce any permanent disability certificated issued by competent medical board. Therefore, considering the evidence of PWs 1 and 2, apart from Ex.X1 and X2, the permanent and partial functional disability of PW-1 is assessed at 20%.

14. Coming to the quantum of compensation, the Petitioner was working as a Supervisor in Sri Prasannanjaneya Electricals and Hardwares in Kanigiri and getting Rs. 9,000/- per month. Considering the testimony of PW-1 and other material record, the monthly income of the Petitioner is assessed as at

Rs. 6,000/- per month, which, in the opinion of this Court, is just and proper and needs no interference.

15. Taking into consideration the 20% disability and applying the relevant multiplier of '11' applicable to the age of the petitioner i.e., 51 years and 10% hike towards future prospects, as per the decision of the Hon'ble Apex Court in ***Sarla Verma v. Delhi Transport Corporation***¹, the Tribunal has rightly calculated the loss of earnings to be Rs.2,37,600/- (Rupees 1800 x 12 x 11). Further, having considered Exs.A5 - medical bills, the Tribunal awarded Rs.2,20,285/- towards medical expenses covered by the said bill; Rs.20,000/- towards pain and suffering and other expenses. Thus, the Tribunal under different heads granted amount and thus, the Petitioner is entitled to total compensation of Rs. 4,77,885/- (Rs. 2,37,600/- + Rs. 2,20,285/- + Rs. 20,000/-) along with interest which cannot be found fault with. This Court finds no error in the order of the Tribunal granting the said compensation to the petitioner.

16. Viewed from any angle, this Court does not find any grounds to interfere with the award impugned in the appeal.

17. In the result, the appeal is dismissed. No costs. Pending miscellaneous applications, if any, shall stand closed.

JUSTICE V.SUJATHA

Date: 02.02.2025
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¹ 2009 ACJ 1298