



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

[3333]

**TUESDAY, THE SEVENTH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX**

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 230/2023

Between:

- 1.DEPOT MANAGER, APSRTC. PARVATHIPURAM DEPOT, PARVATHIPURAM, VIZIANAGARAM DISTRICT.
- 2.MANAGING DIRECTOR, APSRTC, NTR ADMINISTRATIVE BUILDING. RTC HOUSE. PANDIT JAWAHARLAL NEHRU BUS STATION, VIJAYAWADA.

...APPELLANT(S)

AND

- 1.DARRU SUDHA RANI, W/O LATE SIVUDAYYA, AGED ABOUT 50 YEARS. MARIPIVALASA VILLAGE, SEETANAGARAM MANDAL, VIZIANAGARAM DISTRICT.
- 2.DARRU BHARGAV, S/O LATE SIVUDAYYA, AGED ABOUT 20 YEARS, MARIPIVALASA VILLAGE, SEETANAGARAM MANDAL, VIZIANAGARAM DISTRICT
- 3.DARRU BHANUTEJA, S/O LATE SIVUDAYYA, AGED ABOUT 13 YEARS, MARIPIVALASA VILLAGE, SEETANAGARAN- MANDAL, VIZIANAGARAM DISTRICT. (2 AND 3 BEING MINORS REP. BY THEIR MOTHER AND NATURAL GUARDIAN/ 1ST RESPONDENT)
- 4.KASA KALI GOWRI, S/O SADHURAO, AGED ABOUT 39 YEARS, DOOR NO. 83-7/3, VIVEKANANDA COLONY. PARVATHIPURAM TOWN. VIZIANAGARAM DISTRICT. (DRIVER OF APSRTC BUS BEARING NO. AP-35Z-0069)

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Courtpleased to allow the appeal by setting aside the Judgment and Decree passed by Motor Vehicles Accidents Claims Tribunal-cum- Additional District Judge. Parvathipuram passed in M.V.O.P.No. 48 of 2019 dated 09.12.2021 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 347 days in filing the Appeal against the Judgment and Decree passed by Motor Vehicles Accidents Claims Tribunal-cum- II Additional District Judge, Parvathipuram passed in M.V.O.P.No. 48 of 2019 dated 09.12.2021 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 execution of Decree passed by Motor Vehicles Accidents Claims Tribunal-cum II Additional District Judge, Parvathipuram passed in M.V O.P.No. 48 of 2019 dated 09.12.2021, pending disposal of the above M.A.C.M.A and pass

Counsel for the Appellant(S):

1.K SRINIVASA PRASAD SC For APSRTC

Counsel for the Respondent(S):

1.

The Court made the following:

JUDGMENT:

The APSRTC filed the present appeal challenging the order and decree dated 09.12.2021 passed in M.V.O.P.No.48 of 2019 by the Motor Vehicles Accidents Claims Tribunal-cum-II Additional District Judge, Parvathipuram, wherein the Tribunal awarded compensation of Rs.10,00,000/- (Rupees Ten Lakhs only) to the claimants, as per their claim, on account of the death of the deceased Daru Sivudayya in a motor accident that occurred on 07.07.2018.

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, as follows:

a) On 07.07.2018, the deceased, Daru Sivudayya went to Parvathipuram for his personal work. After completion of his work, he returned to Maripivalasa in an auto bearing No.AP35X 3671. On the way, the auto was stopped beside the main road near Vijaya Bank, Narsipuram for attending nature's call and the deceased crossed the road from left side to right side. Meanwhile, one APSRTC bus bearing No.AP35Z 0069 came at high speed in a rash and negligent manner and dashed against the deceased, as a result of which he fell down and succumbed to injuries on the spot. On receiving the information, the Parvathipuram Rural Police registered a case in Crime No.106 of 2008 under Section 304-A IPC against the 1st respondent.

b) It is the contention of the claimants that the deceased was aged about 46 years and was working as a coolie, earning Rs.400/- per day, which

he contributed towards family expenses. Hence, they claimed compensation of Rs.10,00,000/- from the respondents.

04. Respondent No.2/APSRTC filed a counter, which was adopted by respondent Nos.1 and 3, contending that respondent No.1, the bus driver, was not at fault. It is stated that while the bus was proceeding from Parvathipuram to Bobbili and reached near Vijaya Bank, an auto bearing No.AP35X 3671 was found stopped on the left side of the road. While the bus was passing the said auto slowly, the deceased suddenly got down from the auto and, without observing the bus, attempted to cross the road from left to right, dashed against the left side of the bus, and fell under its rear wheel, resulting in his death. It is further contended that there was negligence on the part of the deceased and that, had he taken minimum care, the accident would not have occurred. The compensation and interest claimed are excessive, and the petition is liable to be dismissed.

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

“1. Whether the accident occurred resulting in death of the deceased, is due to rash and negligent driving of the APSRTC bus bearing No.AP35Z 0069 by its driver i.e., R.1?

2. Whether the petitioners are entitled for compensation, if so, at what quantum and from whom?

3. To what relief?

06. On behalf of the claimants, the 1st petitioner examined herself as P.W.1 and also examined P.W.2. Exs.A1 to A5 were marked. On behalf of the respondents, the 1st respondent, the driver of the offending bus, was examined as R.W.1 and no documents were marked.

07. After hearing both parties and considering the oral and documentary evidence on record, the Tribunal allowed the claim petition with the following terms:

“In the result, the petition is allowed with costs by granting Rs.10,00,000/- (Rupees Ten Lakhs only) as compensation to the petitioners directing the respondents No.3 to pay it to the petitioners within a period of two months along with interest at 9% p.a., in view of the law laid down by Hon’ble Supreme Court in Municipal Council of Delhi vs. Association of Victims of Uphaar Trazedy in 2011(4) SCC 482 from the date of filing of the petition over the compensation granted above till the actual date of deposit. Out of the amount of compensation awarded, the 1st petitioner is entitled to a sum of Rs.5,00,000/- and 50% of the amount to be distributed in favour of the 1st claimant and the rest of the amount shall be deposited in the Nationalized Bank for a period of 3 years in favour of 1st petitioner. The petitioners 2 and 3 are entitled to a sum of Rs.2,50,000/- each and the said amount shall be deposited in the Nationalized Bank till they attain the age of majority.”

08. Aggrieved by the said award, APSRTC filed the present appeal on the ground that the Tribunal erred in holding that the accident occurred due to the rash and negligent driving of the bus driver. It is contended that the deceased, after getting down from the auto, attempted to cross the road without observing the bus, dashed against the left side of the bus, fell under the wheel, and died on the spot. Hence, there was contributory negligence on the

part of the deceased, who could have avoided the accident had he exercised due care. It is further contended that the Tribunal erred in assessing the notional income of the deceased at Rs.9,000/- per month in the absence of any documentary evidence.

09. On the other hand, learned counsel for the claimants/respondent Nos.1 to 3 herein supported the impugned award and prayed to dismiss the appeal.

10. Heard Mr.Srinivasa Prasad, learned Standing Counsel for the appellant and learned counsel for the claimants. Perused the record.

11. Now the point for consideration is:

Whether the order of the Tribunal needs any interference?

POINT:

12. On a perusal of the award passed by the Tribunal, it is observed that the 1st petitioner, being the wife of the deceased, examined herself as P.W.1 and deposed regarding the manner of the accident. She also examined P.W.2 and marked Exs.A1 to A5. P.W.2, an eye-witness to the accident, categorically deposed that he witnessed the accident and that, while the deceased was crossing the road from east to west, the RTC bus came in a rash and negligent manner and dashed against him, resulting in his death on the spot. The driver of the offending vehicle was examined as R.W.1, who stated that when the bus reached Vijaya Bank, he noticed an auto parked on the left side of the road. This evidence creates a doubt; however, in the

absence of contra evidence to P.W.2, the Tribunal accepted his version and held that R.W.1 drove the vehicle in a rash and negligent manner. Relying on the evidence of P.Ws.1 and 2 and Exs.A1 to A5, the Tribunal concluded that the accident occurred due to the rash and negligent driving of R.W.1, which does not warrant any interference.

13. Now coming to the quantum of compensation, as per the evidence of P.W.1, the deceased was working as a coolie and earning Rs.400/- per day. However, in the absence of any evidence to prove the same, the Tribunal assessed the notional income of the deceased at Rs.300/- per day, which amounts to Rs.1,08,000/- per annum (Rs.300 X 30 X 12). As there are three dependents in the present case, the Tribunal deducted 1/3rd towards personal and living expenses, thereby taking the annual contribution to the family at Rs.72,000/- (Rs.1,08,000 – Rs.36,000). By applying the relevant multiplier of '13' applicable to the age of the deceased i.e., 46 years, the Tribunal has arrived at Rs. 9,36,000/- (Rs.72,000 X 13), towards loss of dependency, which is just and proper and in accordance with the guidelines laid down by the Hon'ble Apex Court in **Sarla Verma v. Delhi Transport Corporation**¹.

14. Apart from the above, the Tribunal awarded Rs.15,000/- towards loss of estate, Rs.34,000/- towards loss of consortium and Rs.15,000/- towards funeral expenses. Thus, the total compensation awarded was Rs10,00,000/-,

¹ 2017 ACJ 2700

as claimed by the claimants, which, in the opinion of this Court, is well reasoned and requires no interference.

15. 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: 07.04.2026
KGR