

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
THURSDAY, THE THIRTIETH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY THREE



PRESENT

THE HONOURABLE SRI JUSTICE B V L N CHAKRAVARTHI

MACMA No. 1542 OF 2012

Between:

APSRTC., Rayachoti Depot, Rep., Managing Director, Rep., by its Managing Director, Musheerabad, Hyderabad.

... Appellant/Respondent.1

AND

1. Palakunta Anjaneyulu, S/o. Krishnaiah Teacher R/o. Pemmadapalli Harijanawada, R/o. Pemmadapalli, Rayachoti Mandal, Kadapa District.

...Respondent/Petitioner

2. S. Elias, S/o. Azeez Saheb Owner of the Jeep No. AP 04U 4398 Thimmasamudram, Rayachoti, Kadapa District.

...Respondents/Respondent No.2

3. The New India Assurance Company Limited, Rep., by its Divisional Manager The New India Assurance Company Limited Divisional Office, Beside Kotireddy Women's College, Nagarajupeta, Kadapa City.

...Respondents/Respondent No.3

Appeal filed under Section 173 of Motor Accident Act aggrieved by the order and Decree dated 27-04-2010 made in M.V.O.P. No. 166 of 2008 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-V Additional District Judge, Rayachoty, Kadapa District.

This appeal coming on for hearing and upon perusing the grounds of appeal, the Judgment and Decree of the Lower Court and the material papers in the suit and upon hearing the arguments of Sri K. Vishwanatham, learned standing counsel for the appellant, and Sri Mahadeva Kanthrigala, Advocate appearing for the Respondent No.1

This Court doth order and decree as follows:

1. That the appeal be and hereby is dismissed confirming the order and decree dated 27.04.2010 passed in M.V.O.P.No.166 of 2008 on the file of the Motor Accident Claims Tribunal-cum-V Additional District Judge Rayachoty.
2. That there shall be no order as to costs in this MACMA

**Sd/- S.SRINIVASA PRASAD
ASSISTANT REGISTRAR**

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SECTION OFFICER

To,

1. The Chairman, Motor Accidents Claims Tribunal-cum-V Additional District Judge, Rayachoty, Kadapa District.
2. THREE CD copies.

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HIGH COURT

DATED:30/11/2023

DECREE

MACMA.No.1542 of 2012



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27/2/2024

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Between:

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... Appellant/Respondent.1

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1. Palakunta Anjaneyulu, S/o: Krishnaiah Teacher R/o. Pemmadapalli Harijanawada, R/o. Pemmadapalli, Rayachoti Mandal, Kadapa District.

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...Respondents/Respondent No.3

I.A. NO: 2 OF 2011(MACMAMP. NO: 1206 OF 2011)

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 including execution in MVOP.No. 166/2008 on the file of the Chairman, Motor Accident Claims Tribunal cum V Additional district Jduge, Rayachoti dated 27.04.2010 pending disposal of the above CMA

I.A. NO: 1 OF 2013(MACMAMP, NO: 4121 OF 2013)

Between:

Palakunta Anjaneyulu, S/o. Krishnaiah Teacher R/o. Pemmadapalli
Harijanawada, R/o. Pemmadapalli, Rayachoti Mandal, Kadapa District.

... Petitioner/Respondent

AND

1. APSRTC., Rayachoti Depot, Rep., Managing Director, Rep., by its
Managing Director, Musheerabad, Hyderabad.

...Respondent/Petitioner

2. S. Elias, S/o. Azeez Saheb Owner of the Jeep No. AP 04U 4398
Thimmasamudram, Rayachoti, Kadapa District.

...Respondents/Respondent No.2

3. The New India Assurance Company Limited, Rep., by its Divisional
Manager The New India Assurance Company Limited Divisional Office,
Beside Kotireddy Women's College, Nagarajupeta, Kadapa City.

...Respondents/Respondent No.3

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 vacate the interim order dated 30/3/2011 passed in M.A.C.M.A.M.P.No.1206 of 2011 in M.A.C.M.A.No.1542 of 2012 (MACMA.SR.No. 9773 of 2011) by allowing the petitioner to withdraw the amount deposited by the appellant.

Counsel for the Appellant: SRI K VISWANATHAM (SC FOR APSRTC)

Counsel for the Respondent No.1: MAHADEVA KANTHRIGALA

The Court made the following: JUDGMENT

HON'BLE SRI JUSTICE B.V.L.N. CHAKRAVARTHI

M.A.C.M.A.No.1542 OF 2012

JUDGMENT:

Challenging the order dated 27.04.2010 passed in M.V.O.P.No.166/2006 on the file of Motor Accidents Claims Tribunal-cum-V Addl.District Judge, Rayachoty, the 1st respondent/APSRTC filed the appeal.

2. The claimant filed claim petition before the learned Tribunal U/s.166 of Motor Vehicles Act, 1988 claiming compensation of Rs.1,00,000/-, alleging that on 28.11.2006 when the claimant and some passengers were proceeding in a jeep bearing No.AP 04U 4398 from Rayachoti to T.Sundupalli and when the said jeep reached near the turning of T.Sundupalli-Rayachoti road at about 08.30 a.m., one R.T.C. bus bearing No.AP 10Z 3717 came from opposite direction, in a rash and negligent manner in wrong side and dashed against the jeep; as a result, the claimant and others in the jeep sustained injuries and one U.Venkatarayudu died on the spot; The claimant was shifted to Government Hospital, Rayachoti, and from there to Government Hospital, Kadapa, and he was treated as in-patient for two months.

3. Before the learned Tribunal, the 1st respondent/APSRTC filed written statement, while traversing the material averments with regard

to manner of accident, rash and negligence on the part of the driver of the crime vehicle, nature of injuries, medical expenditure, age and avocation of the claimant, alleged permanent disability, liability to pay compensation; contended that the accident took place due to negligent act of the driver of the jeep, and there was no negligence on the part of driver of APSRTC Bus; At the time of accident, there were nearly 23 persons in the jeep travelling, hanging on both sides of the jeep; The driver of the jeep had no valid driving licence to drive the jeep; The amount of compensation claimed by the claimant is highly excessive.

4. The 3rd respondent/Insurance Company filed written statement denying the allegations of the petition, contended that the accident was occurred due to rash and negligence act of driver of APSRTC bus only. The FIR was also registered against the driver of APSRTC bus and charge sheet was filed against the driver of APSRTC bus after investigation by the police; In the said accident, seven persons travelling in the jeep were died and more than 16 persons sustained injuries; Therefore, the 1st respondent/APSRTC alone is liable to pay compensation to the claimants; The 2nd respondent violated the terms and conditions of the insurance policy, since he permitted more than the persons allowed to travel in the said jeep, when the seating capacity of the said jeep is only 9 + 1 in all; Hence, the 3rd respondent

is not liable to indemnify the 2nd respondent; The amount of compensation claimed by the claimant is highly excessive.

5. The 2nd respondent remained exparte.

6. On the strength of the pleadings of both parties, the learned Tribunal framed the following issues:

1. Whether the petitioner received injuries in a motor vehicle accident occurred on 28.11.2005 due to rash and negligent driving of drivers of R-1's APSRTC Bus bearing No.AP 10Z 3717 and R 2's jeep bearing No.AP 04U 4398?

2. Whether the petitioner is entitled for compensation? and if so, to what amount and from whom?

3. To what relief?

7. To substantiate his claim, the claimant examined himself as P.W-1 and doctor as P.W-2 and Exs.A-1 to A-5 were marked. On behalf of the 3rd respondent/Insurance Company, R.W-1 was examined and Exs.B-1 to B-3 were marked.

8. The learned Tribunal, taking into consideration of the evidence placed by the claimant, answered issue No.1 holding that accident was occurred only due to rash and negligent driving of driver of the APSRTC Bus bearing No. AP 10Z 3717.

9. The learned Tribunal, considering the evidence placed before it, answered issue No.2 holding that the claimant sustained four injuries in the road traffic accident occurred on 28.11.2005 and out of them, two injuries are grievous and two are simple in nature and he is entitled for compensation and awarded an amount of Rs.70,800/-.
10. The learned counsel for appellant/APSRTC contended that the learned Tribunal fastened the total liability on the appellant, even though there is no negligence on the part of bus driver; The learned Tribunal failed to consider the evidence of R.W-1 and erred in believing the evidence of P.W-1 and concluded that there is negligence on the part of bus driver; The learned Tribunal ought to have seen that the jeep is overloaded with 23 passengers at the time of accident
11. The learned counsel for Insurance Company would contend that the learned Tribunal awarded just compensation as per law considering the oral and documentary evidence produced by the claimant and the 2nd respondent, and it does not warrant any interference by this Court.
12. In the light of above rival contentions, the points that would arise for consideration in this appeal are as under;

1. Whether the learned Tribunal committed any error in not awarding any compensation to the claimant under the head loss of amenities?
2. To what relief?

13. **POINT No.1:**

The evidence of the evidence of the claimant about the way in which accident was occurred was corroborated the facts revealed in the investigation of the police. No contra evidence was placed by the appellant RTC. Therefore, no grounds to interfere with the finding of the learned Tribunal that accident was occurred due to the rash and negligence driving of the driver of the appellant.

14. The claimant examined Dr.C.Sanjeevaiah as P.W-2. He deposed that he examined the claimant on 08.07.2009 before District Medical Board, Kadapa and found mal-united fracture of both bones of right fore-arm and mal-united fracture of right tibia with desorption of right knee and he assessed the permanent disability sustained by the claimant due to those two mal-united fractures at 45%.

15. The claimant in his evidence deposed that he was working as a private teacher and earning Rs.4,000/- per month. As the claimant did not produce any documentary evidence to show his profession and income, learned Tribunal considered the annual income of the

claimant notionally as Rs.24,000/. The claimant was aged about 28 years as per Ex.A-3 copy of wound certificate as on the date of accident. Therefore, the multiplier applicable to the person aged between 25 and 30 years is '18'. The learned Tribunal considered the fractures, fixed the disability sustained by the claimant at 5%. Thus, the claimant was awarded a compensation of $\text{Rs.}24,000 \times 18 \times 5 / 100 = \text{Rs.}21,600/-$ towards loss of earnings.

16. The learned Tribunal in its order further observed that as the claimant sustained two grievous injuries to his right leg, awarded Rs.20,000/- for grievous injury sustained by the claimant to his right leg, Rs.20,000/- for the grievous injury sustained by the claimant to his right fore arm, and Rs.5,000/- for simple injuries under the head pain and suffering. The claimant filed medical bills to a tune of Rs.1,190/- and the learned Tribunal awarded Rs.1,200/- towards medicines and also awarded Rs.1,500/- towards extra nourishment and also awarded an amount of Rs.1,500/- towards attendant charges, considering the injuries sustained by the claimant, and in all the claimant is entitled for a total compensation of Rs.70,800/- with interest @ 7.5% per annum from the date of petition, till the date of realisation against the 1st respondent/APSRTC alone, by dismissing the petition against the respondents No.2 and 3.

17. In the light of above circumstances, this Court is of the considered opinion that basing on the material available on record, the learned Tribunal awarded just compensation to the claimant to a tune of Rs.70,800/- with interest @ 7.5% per annum.

18. The Tribunal awarded interest at 7.5% p.a. from the date of petition, till the date of deposit. This Court do not find any ground to interfere with the rate of interest awarded by the learned Tribunal at 7.5% p.a., from the date of petition, till the date of realisation, in view of the Hon'ble Apex Court judgement in the case of **National Insurance Company Limited Vs. Mannat Johal**¹.

19. In view of the above discussion, the appeal is liable to be dismissed, by confirming the order and decree passed by the learned Tribunal. Accordingly, the point is answered.

20. **POINT No.2:** To what relief?

In the light of finding on point No.1, the appeal is liable to be set aside by confirming the order and decree dated 27.04.2010 passed in M.V.O.P.No.166/2008 on the file of Motor Accidents Claims Tribunal-cum-V Addl.District Judge, Rayachoty.

¹ 2019 ACJ 1849 (SC)

21. In the result, the appeal is dismissed by confirming the order and decree dated 27.04.2010 passed in M.V.O.P.No.166/2008 on the file of Motor Accidents Claims Tribunal-cum-V Addl.District Judge, Rayachoty. There shall be no order as to costs.

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

Sd/- S.SRINIVASA PRASAD
ASSISTANT REGISTRAR

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SECTION OFFICER

To,

1. The Chairman, Motor Accidents Claims Tribunal-cum-V Additional District Judge, Rayachoty, Kadapa District.
2. One CC to Sri K Viswanatham (SC FOR APSRTC) High Court of Andhra Pradesh, Amaravati [OPUC]
3. One CC to Sri Mahadeva Kanthrigala Advocate [OPUC]
4. The Section Officer, VR Section, High Court of Andhra Pradesh at Amaravathi.
5. Three CD copies.

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HIGH COURT

DATED:30/11/2023

JUDGMENT+DECREE

MACMA.No.1542 of 2012



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