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APHC010272692018



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

[3604]

TUESDAY, THE 29th DAY OF SEPTEMBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 909/2018

Between:

1. ANDHRA PRADESH STATE ROAD TRANSPORT CORPORATION,
REP BY ITS MANAGING DIRECTOR MUSHEERABAD, HYDERABAD
PRESENT AT PANDIT NEHRU BUS STATION, VIJAYAWADA,
AMARAVATHI

...APPELLANT

AND

1. AMAVASYA RAJAMMA, W/O. VENKATAIH, AGED ABOUT-46 YEARS,
R/O. SAI THEATRE GALIVEEDU RAOD, RAYACHOTY TOWN,
KADAPA

...RESPONDENT

Appeal filed under Order 41 of CPC before the High Court Aggrieved by the order and decree dated. 26/09/2017 in MVOP.no.72/2011 on the file of the Motor Accident Claims Tribunal-cum-V Additional District Judge, Rayachoty, Kadapa

IA NO: 1 OF 2018

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 stay all further proceedings including the execution proceedings in MVOP.no.72/2011 on the file of the Motor Accident Claims Tribunal-cum-V Additional District Judge, Rayachoty Kadapa District and pass

IA NO: 2 OF 2018

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 delay of 52 days in filing the MACMA and pass

Counsel for the Appellant:

1.ARAVALA RAMA RAO(SC FOR APSRTC KKAC)

Counsel for the Respondent:

1.NAMBURI SREEMANNARAYANA

The Court made the following:

THE HON'BLE SMT. JUSTICE SUNITHA GANDHAM**MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 909 OF 2018****JUDGMENT:**

Assailing the judgment and decree dated 26.09.2017 passed in M.V.O.P.No.72 of 2011 by the Motor Accident Claims Tribunal-cum-V Additional District Judge, Rayachoty, the respondent/insurance company has preferred the instant appeal for awarding compensation at Rs.1,97,000/- with proportionate costs and interest at 6% interest per annum for the injuries sustained by the petitioner (injured).

2. The parties are being referred to as 'petitioner' and 'respondent' as arrayed in the petition before the tribunal, for the sake of convenience and clarity.

3. Case of the petitioner is thus:

On 01.01.2010 at about 07:00 P.M, while the petitioner, her husband and one Sarojamma were going in bullock cart and when they reached Yarragunta Nursery situated at Rayachoty, driver of APSRTC bus bearing No.AP11 Z 1109, drove the same in a rash and negligent manner and dashed against the bullock cart and as a result of which, petitioner sustained injuries. Immediately after the accident, she was shifted to Government Hospital, Rayachoty and from there, shifted to RIMS Hospital, Kadapa. Basing on the report of the de facto complainant, a case in crime No.1 of 2010 is registered of the offences under Sections 337 and 338 of Indian Penal Code (hereinafter referred to as 'the Code') against the driver of APSRTC bus. The accident occurred due to the rash and negligent driving of driver of APSRTC bus and as such, respondent is liable to pay compensation.

4. Respondent filed counter affidavit refuting the averments made in the petition, wherein, *inter alia* contended that the petitioner claimed excessive compensation, there was no negligence on the part of the driver of APSRTC bus, rider of the bullock cart was at fault and respondent is not liable to pay compensation.

5. During trial, petitioner herself examined as PW1 and she has got examined PWs 2 and 3, and filed Exs.A1 to A4 documents. As against the said evidence, respondent has not adduced either oral or documentary evidence. At the culmination of trial, learned tribunal allowed the petition granting compensation of Rs.1,97,000/- with interest at 6% per annum. Feeling aggrieved by the said judgment and decree dated 26.09.2017, respondent preferred the instant appeal urging the following grounds:

- i) The judgment and decree of the learned tribunal is illegal, arbitrary, unjust and contrary to law.
- ii) The learned tribunal failed to see that there was no negligence on the part of the driver of APSRTC bus.
- iii) The learned tribunal ought to have seen that there was fault on the part of rider of the bullock cart.
- iv) The learned tribunal erred in holding that the accident occurred due to the rash and negligent driving of driver of bus, and with other formal grounds, prayed to allow the appeal.

6. Heard both sides.

7. On hearing both sides and upon perusing the material available on record, that points that would arise for consideration are:

1. Whether the accident dated 01.01.2010 occurred due to rash and negligent driving of APSRTC bus bearing No.AP11 X 1109?
2. Whether the petitioner is entitled for compensation? If so, to what amount?

3. Whether the judgment and decree dated 26.09.2017 passed by the learned tribunal are sustainable in facts and law?

4. To what relief?

8. Being the first appellate court and final fact finding court, this court has to re-examine and re-appreciate the entire oral as well as documentary evidence on record.

9. Point No.1:

(a) To prove the contentions of the petitioner, she herself examined as PW1, filed her examination-in-chief in lieu of chief-examination, reiterating the averments made in the petition and she also got examined two independent witnesses to prove the manner and method of accident. PW1 testified that on 01.01.2010 at about 07:00 P.M, while herself, her husband and others were going by bullock cart and when their bullock cart reached Yarraguntla Nursery, driver of APSRTC bus bearing No.AP11 Z 1109 drove the same in a rash and negligent manner and dashed against their bullock cart and as a result, she sustained multiple injuries and immediately after the accident, she was shifted to the Government hospital and since the accident occurred due to the rash and negligent driving of APSRTC bus, a case in crime No.1 of 2010 is registered of the offence under Sections 337 and 338 of the Code, against the driver. PW3/husband of the petitioner and PW2/independent witness also stated on the same lines of evidence of PW1 and nothing useful material is elicited in the cross examinations of PWs 1 to 3. Added to it, respondent failed to cross examine its driver who is the best person to speak about the accident and his non examination is fatal to the case of the prosecution.

(b) Further, as seen from Ex.A1/first information report, a case in crime No.1 of 2010 is registered of the offences under Sections 337 and 338 of the code against the driver of APSRTC bus and after completion of investigation, police found fault with the driver and laid charge sheet *vide* Ex.A2 alleging that the accident occurred due to his rash and negligent driving. So, Exs.A1 and

A2 support the evidence of PW Nos.1 to 3 and no rebuttal evidence is adduced by the respondent on this aspect. So, in the absence of any rebuttal evidence, the evidence of PW Nos.1 to 3, which is buttressed by Exs.A1 & A2, clinchingly proves that the accident occurred due to the rash and negligent driving of APSRTC bus bearing No.AP 11 Z 1109 by its driver. Added to it, as seen from Ex.A3/wound certificate, petitioner sustained injuries in the road traffic accident. As per the material brought on to the record, this court came to the conclusion that the accident occurred due to the rash and negligent driving of APSRTC bus bearing No.AP11 Z 1109 by its driver and the petitioner sustained injuries in the said accident. Hence, this point is accordingly answered in favour of the petitioner.

10. Point No.2:

(a) As per the version of the petitioner, she was hale and healthy, was doing samosa business and was getting income of Rs.10,000/- per month, and on 01.01.2010, she sustained multiple injuries, and immediately after commission of accident, she was shifted to the government hospital, Rayachoty and thereafter, she took treatment in RIMS Hospital, Kadapa and to prove her injuries and treatment, she has not examined any doctor, however, as seen from Exs.A3/wound certificate, she sustained fracture injury to her left thigh and took treatment. Admittedly, non examination of doctor is not fatal to the case of the petitioner to award compensation and the record clearly reveals that petitioner sustained fracture injury in the accident dated 01.01.2010 and underwent surgery. In ***Managing Director, North East Karnataka Road Transport Corporation v. T. Prabhakar***¹, Hon'ble High Court of Karnataka held that non-examination of the doctor is not fatal to the case of claimants and it is permissible under law to produce the wound certificate by the claimants issued by the medial officer and further, non-

¹ (2002) 09 KAR CK 0078

examination of the medical officer will not vitiate the claim for compensation by the claimants based on the wound certificate.

(b) So far as income of the petitioner is concerned, she has not adduced any supportive documentary evidence, however, as per the version of PW2, who is independent witness, petitioner was doing samosa business and was earning Rs.150/- per day. In the given facts and circumstances, learned tribunal has also assessed notional income of the petitioner at Rs.150/- per day. Having considered the injuries and treatment taken by the petitioner coupled with Ex.A3/wound certificate and A4/disability certificate, the learned tribunal had considered the functional disability at 20% and awarded compensation of Rs.1,97,000/-.

(c) On a careful re-appreciation of the entire evidence, this Court finds that the Tribunal considered the claimant's age, occupation, income, injuries, treatment and functional disability while determining the compensation. The respondent has not placed any evidence before this Court demonstrating that the findings of the Tribunal on these aspects are perverse or unsupported by the record. Hence, this point is answered in favour of the petitioner and against the respondent.

11. Point No.3:

Having regard to the foregoing discussion, this Court is of the considered view that the findings recorded by the learned Tribunal regarding the manner of the accident, negligence of driver of APSRTC bus, the injuries sustained by the claimant, her functional disability, her occupation and income, and the consequent entitlement to compensation are supported by the evidence on record. The respondent has failed to establish any legal or factual infirmity warranting interference with the impugned judgment. Hence, this point is answered in favour of the petitioner and against the respondent.

12. **In the result**, and in view of the findings in point Nos.1 to 3, this Motor Accident Civil Miscellaneous Appeal is dismissed, confirming the judgment and decree 26.09.2017 in M.V.O.P.No.72 of 2011 passed by the Motor Accident Claims Tribunal-cum-V Additional District Judge, Rayachoty.

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

SUNITHA GANDHAM, J

29.09.2026

Vns