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APHC010892062017

**IN THE HIGH COURT OF ANDHRA PRADESH**
**AT AMARAVATI [3604]**
**(Special Original Jurisdiction)**

MONDAY, THE 2ND DAY OF NOVEMBER 2026

**PRESENT**

**THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM**

**MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 2817/2017**

**Between:**

1. APSRTC, REP. BY ITS VICE CHAIRMAN AND MANAGING DIRECTOR OWNER OF APSRTC BUS BEARING NO. AP-11Z-2500 OF ELURU DEPOT, MUSHEERABAD, HYDERABAD. NOW AT VIJAYAWADA

**...APPELLANT**

**AND**

1. GADI RAMA LAKSHMI ANOTHER, W/O SAMBASIVA RAO AGED ABOUT 54 YEARS, OCC:HOUSE WIFE RESIDENT OF D.NO. 206-6-84/2 ANKANAVARI STREET, GANDHI NAGAR ELURU, WEST GODAVARI DISTRICT
2. RAMISETTY PRABHAKARA RAO, S/O RAMA RAO DRIVER OF APSRTC BUS BEARING NO. NO,. AP-11-Z-2500 SRIRAMA NAGAR, C/O SRI VENKATA SAI FANCY & KIRANA 5TN ROAD, ELURU, WEST GODAVARI DISTRICT

**...RESPONDENT(S):**

Appeal filed under Order 41 of CPC before the High Courtto allow the appeal by setting aside the judgment and decree passed by Motor Accidents Claims Tribunal-cum-VW Additional District and Sessions Judge, West Godavari at Eluru passed in M.V.O.P No. 639 OF 2013 dated 26.09.2016 and pass

**IA NO: 1 OF 2017(MACMAMP 4982 OF 2017**

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

**IA NO: 2 OF 2017(MACMAMP 4983 OF 2017**

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

**Counsel for the Appellant:**

1. K SRINIVASA PRASAD SC For APSRTC

**Counsel for the Respondent(S):**

1. N SRIHARI

**The Court made the following:**

**THE HON'BLE SMT. JUSTICE SUNITHA GANDHAM**

**MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 2817 OF 2017**

**JUDGMENT:**

Assailing the award and decree dated 26.09.2016 in M.V.O.P.No.639 of 2013 passed by the Chairman, Motor Accidents Claims Tribunal-cum-VIII Additional District and Sessions Judge, West Godavari, respondent No.2/APSRTC preferred the instant appeal for granting an amount of Rs.15,75,960/- towards compensation.

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

**3. Case of the petitioner is thus:**

On 18.03.2012, while the petitioner along with others were travelling in the APSRTC bus bearing No.AP11-Z-2500 from Eluru to Chintalapudi to attend her personal work and when they reached near T.T.D. Kalyana Mandapam, Chintalapudi at 9.45 P.M, driver of the bus drove the same in a rash and negligent manner and dashed against the road side tree, bus turned turtle and as a result of which, petitioner and others sustained grievous injuries. Immediately after the accident, all the injured were shifted to the government hospital, Chintalapudi. Petitioner took treatment in the Government Headquarters Hospital, Eluru, Government General Hospital, Guntur and private hospital for better treatment. A case in crime No.43 of 2012 is registered of the offences under Sections 337 and 338 of Indian Penal Code (hereinafter referred to as 'the Code') and against the driver of the bus as the accident occurred due to the rash and negligent driving of driver of the bus and as such, both the respondents are liable to pay compensation.

4. Respondent No.2 filed counter refuting the averments made in the petition, wherein, *inter alia* contended that the petitioner claimed excessive compensation and interest, petitioner was not a passenger of the bus, and with other formal denials, prayed to dismiss the petition.

5. Taking into consideration of the aforementioned pleadings, the learned Tribunal settled the following issues:

> 1) Whether the claimant sustained injuries due to rash and negligent driving of APSRTC Bus bearing No.AP11Z 2500 on 18.03.2012 at about 9.45 A.M, near T.T.D. Kalyana Mandapam, Chintalapudi, West Godavari District by the driver/1st respondent?
>
> 2) Whether the driver/R1 possessed a valid driving license at the time of accident?
>
> 3) Whether the accident resulted in permanent disablement of the injured/victim?
>
> 4) Whether the claimant is entitled to claim compensation? If so, to what relief?

6. During trial, petitioner examined herself as PW.1 and she has got examined PW Nos.2 to 4, and filed Exs.A1 to A16, X1 and X2 documents. As against the said evidence, respondents have not adduced either oral or documentary evidence. At the culmination of trial, learned Tribunal allowed the petition granting compensation of Rs.15,75,960/- with interest at 7.5% per annum. Feeling aggrieved by the said award and decree dated 26.09.2016, respondent No.2 preferred the instant appeal urging the following grounds:

(i) The Award and decree of the learned Tribunal is illegal, arbitrary, unjust and contrary to law.

(ii) The learned Tribunal has not properly considered the oral and documentary evidence to decide the issues.

(iii) The learned Tribunal ought to have appreciated the fact that the petitioner failed to establish the rash and negligent driving of the driver of the bus.

(iv) The learned Tribunal erred in not considering the fact that petitioner has not produced bus ticket to prove that she was travelling in the bus.

(v) The learned Tribunal erred in considering the age of the petitioner as 50 years without any valid proof and erroneously applied multiplier '13'.

(vi) The learned Tribunal erred in awarding compensation of Rs.6,87,960/- towards 98% disability without any valid certificate from the competent authority.

(vii) The learned Tribunal erred in awarding compensation of Rs.60,000/- towards medical expenses, Rs.30,000/- towards transportation, Rs.4,00,000/- towards pain and suffering, Rs.1,00,000/- towards loss of earnings, Rs.48,000/- towards extra nourishment and Rs.2,00,000/- towards loss of amenities.

(viii) The learned Tribunal erroneously awarded excessive compensation than the compensation claimed by the petitioner, and with other grounds, prayed to allow the appeal.

7. Heard both sides.

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

1. Whether the accident dated 18.03.2012 occurred due to the rash and negligent driving of APSRTC bus bearing No.AP11 Z 2500?
2. Whether the petitioner is entitled for compensation? If so, to what amount?
3. Whether the Award and decree dated 26.09.2016 passed by the learned Tribunal are sustainable in facts and law?
4. To what relief?

9. Admittedly, petitioner has not preferred any appeal challenging the findings of the learned Tribunal, however, 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.

**10. Point No.1:**

(a) To prove the contentions, petitioner examined herself as PW.1, filed examination in chief affidavit in lieu of his chief examination reiterating the averments made in the petition. PW.1 testified that on 18.03.2012, at about 09.45 A.M, while herself and others were going in the APSRTC bus bearing No.AP11-Z-2500 from Eluru to Chintalapudi and when the bus reached near T.T.D. Kalyana Mandapam, driver of the APSRTC bus drove the same in a rash and negligent manner and dashed against the road side tree and as a result, herself and other passengers sustained multiple grievous injuries and since the accident occurred due to the rash and negligent driving of driver of the bus, a case in crime No.43 of 2012 is registered of the offence under Sections 337 and 338 of the Code, against the driver. Nothing useful material is elicited in the cross examination of PW 1.

(b) Further, as seen from Ex.A1/First information report, a case in crime No.43 of 2012 is registered of the offences stated *supra* against the driver of the bus i.e. respondent No.1 and after completion of investigation, police found fault with the driver and laid Ex.A5/Charge sheet alleging that the accident occurred due to his rash and negligent driving. So, Exs.A1 and A5 supports the evidence of PW.1 and no rebuttal evidence is adduced by the respondents on this aspect. Added to it, respondent No.2 failed to examine its driver, who is the best person to speak about the accident and his non examination is fatal to the case of the respondents. So, in the absence of any rebuttal evidence, the evidence of PW.1, which is buttressed by EXs.A1 & A5, clinchingly proves that the accident occurred due to the rash and negligent driving of driver of the bus bearing No.AP 11Z 2500 by its driver. As seen

from EX.A3/Motor Vehicle Inspector Report, the accident was not occurred due to any mechanical defects. Learned counsel for the respondent No.2 contended that petitioner had not travelled in the bus. But, as seen from Ex.A4/Wound certificate, on 18.03.2012 petitioner took treatment in the Government hospital, Chintalapudi and in EX.A5/Charge sheet, petitioner is cited as one of the injured persons. As per the material brought on to the record, this court came to conclusion that the accident occurred due to the rash and negligent driving of the bus bearing No.AP 11Z 2500 by its driver and the petitioner sustained injuries in the said accident. Hence, this point is accordingly answered in favour of the petitioner.

**11. Point No.2:**

(a) As per the version of the petitioner, she was hale and healthy, was aged about 50 years, working as coolie and was earning Rs.6000/- per month, on 18.03.2012, she sustained multiple grievous injuries, immediately after the accident, she was shifted to the Government Hospital, Chintalapudi, from there, shifted to the Government Headquarters Hospital, Eluru, Government General Hospital, Guntur and private hospital for better treatment, took treatment for more than 50 days, underwent surgeries, both legs below the knees were amputated, suffered loss of income and permanent disability, and filed Exs.A4/Wound certificate and A6/Disability certificate, EX.X1 and X2/Case sheets.

(b) To prove her injuries and treatment, petitioner has got examined two doctors as PWs.3 and 4. P.W.4 who is Civil Assistant Surgeon testified that on 18.3.2012 at 04.00 P.M., the petitioner was referred from community health centre, Chintalapudi, he examined P.W.1 and found injuries of avulsion of Heel upto middle of left foot with partial degloving of dorsal skin and crush injury of right foot and on 21.3.2012, she was referred to higher centre and admitted EX.X.2/Case sheet and Ex.A.4/Wound certificate, and further stated that both the injuries are grievous in nature.

(c) P.W.3 testified that on 22.3.2012 the petitioner was admitted in Government General Hospital, Guntur and on the same day, below knee guillitone amputation of both lower limbs is done, on 09.4.2012, conducted surgery to the right lower limb with knee disarticulation closure of the stump, on 23.4.2012, conducted another surgery to the left lower limb with revision below knee amputation of left lower limb and on 04.05.2012, the petitioner was discharged with an advice to get follow up treatment and the petitioner cannot perform her activities independently, and P.W.3 admitted EX.X1/Case sheet.

(d) So far as disability of the petitioner is concerned, P.W.2/ Civil Assistant Surgeon testified that on 03.08.2012, the petitioner approached Medical Board, Eluru, Dr. M.V.G.Tilak, Civil Assistant Surgeon-Cum-Member of Medical Board examined the petitioner and issued disability certificate by assessing the disability at 98% which is permanent in nature, the said doctor is no more and he identified signature of the said doctor on EX.A6/Disability certificate and the petitioner. It is his further evidence that without the help of a female assistant, the petitioner cannot move from the bed to attend her routine activities permanently.

(e) Having considered the injuries and treatment taken by the petitioner coupled with medical record, the learned Tribunal had considered the functional disability at 98%. However, in view of the amputation of both legs, functional disability of the petitioner can be assessed as 100%.

(f) Insofar as age of the petitioner is concerned, as seen from EX.X1/Case sheet and EX.A5/Charge sheet, petitioner was aged about 50 years, as on the date of accident. There is no contra evidence to that effect. So, it can safely be concluded that the petitioner was aged about 50 years, as on the date of the accident. Insofar as income of the petitioner is concerned, she has not filed any documents to prove her monthly income. In the given facts and circumstances coupled with the fact that the accident occurred in the year

2012 and on a reasonable hypothesis, monthly earnings of the petitioner have to be considered at (150x30) Rs.4,500/-.

(g) Admittedly, the petitioner has not filed any appeal for enhancement of compensation, however, learned counsel for the petitioners would argue that though they have not filed any appeal or cross objections seeking enhancement of compensation, just and fair compensation may be awarded. Learned counsel for the respondents argued that the accident occurred in the year 2011 and as such, the present principles of law shall not be applied to the facts of the case at hand. It is settled principle of law that the petitioners are entitled for just and fair compensation and further, in exercise of the appellate powers under Order 41 Rule 33, this court can enhance the amount of compensation even in the absence of appeal or cross objections. In this regard, it is to be noted that in ***Sharanamma & Others v. Divisional Controller, North-East Karnataka Road Transport Corporation***[1]***,*** Hon'ble Apex Court held thus:

> "10. When an appeal is filed under Section 173 of the Motor Vehicles Act, 1988, before the High Court, the normal rules which apply to appeals before the High Court, are applicable to such an appeal also. Even otherwise, it is well settled position of law that when an appeal is provided for, the whole case is open before the appellate court and by necessary implication, it can exercise all powers incidental thereto in order to exercise that power effectively. A bare reading of Section 173 of the Act also reflects that there is no curtailment or limitations on the powers of the appellate court to consider the entire case on facts and law".

(h) Further, in ***National Insurance Company Limited rep. By its Branch Manager v. Susheelamma and Others*** [2] , having considered the aforementioned principle, Division Bench of this Court has held that to the appeal under Section 173 of the M.V. Act to the High Court, in the absence of a different procedure having been provided, either under the M.V. Act or the

[1] 2013 (11) SCC 517
[2] 2023 SCC Online AP 1725

A.P.M.V. Rules, 1989, and the applicability of Order 41 C.P.C also not having been excluded, the normal rules which apply to appeals before the High Court, are applicable and further held that for doing justice and to award just compensation, the provisions of Order 41 Rule 33 are to be invoked.

(i) And, in ***Surekha v. Santhosh***[3], having agreed with the stand of the claimants that just compensation amount ought to be awarded, High Court of Judicature at Bombay declined to grant enhancement merely on the ground that the claimants failed to file cross appeal and in such circumstances, Hon'ble Apex Court held that it is well settled that in the matter of insurance claim compensation in reference to the motor accident, the court should not take hyper technical approach and ensure that just compensation is awarded to the affected person or the claimants. So, in the absence of any appeal or cross objections in respect of quantum of compensation, this Court is under obligation to award just and fair compensation.

(j) So, as per the evidence of PWs 1 to 4 coupled with Exs.A4 to A6, X1 and X2, petitioner sustained grievous injuries to her both legs, underwent three surgeries, took treatment for more than 50 days, her both legs below the knees were amputated, incurred expenses towards treatment, lost income during the period of treatment and also suffered disability and the details of compensation under each head are as follows:

**I. Pecuniary Damages:**

i) **Loss of earnings due to disability and future prospects:**

(a) Having considered the amputations of both legs of the petitioner below the knees, this court assessed the functional disability of the petitioner at 100%. In ***Sarla Verma v. Delhi Transport Corporation***[4], Hon'ble Apex Court held thus:

[3](2021) 16 SCC 467
[4] (2009) 6 SCC 121

> "It is necessary to reiterate that the multiplier method is logically sound and legally well established. There are some cases which have proceeded to determine the compensation on the basis of aggregating the entire future earnings for over the period the life expectancy was lost, deducted a percentage therefrom towards uncertainties of future life and award the resulting sum as compensation. This is clearly unscientific. For instance, if the deceased was, say 25 years of age at the time of death and the life expectancy is 70 years, this method would multiply the loss of dependency for 45 years virtually adopting a multiplier of 45 and even if — — one-third or one-fourth is deducted therefrom towards the uncertainties of future life and for immediate lump sum payment, the effective multiplier would be between 30 and 34. This is wholly impermissible."

(b) This principle applies to the permanent disability cases also. So, the loss of future earnings have to be calculated by applying the multiplier method. It is evident from the record that the petitioner was aged about 50 years, as on the date of accident and the relevant multiplier is '13'. Further, in ***National Insurance Company Limited Vs. Pranay Sethi*** [5], the Hon'ble Apex Court considered the claim for future prospects of a victim, a carpenter, who had suffered permanent disability. Since, the petitioner was aged about 50 years, 25% of the future prospects have to be taken into consideration.

i**i) Loss of earnings (Past):**

The shock, pain and suffering at the time of accident, pain discomfort and inconvenience during the period of treatment, hospitalization and bed rest can be visualized. It is common knowledge that without a reasonable physical fitness one cannot do any work and in the light of the documents on record and considering the nature of injuries sustained and treatment received by PW. 1, it is reasonable to accept that the injured was out of work for at least one year. So, loss of earnings (past) are determined at Rs.56,000/- (Rs.4,500x12).

**iii) Medical Expenses:** Petitioner has not filed any medical bills showing actual expenditure. In this regard, it is to be noted that in ***Managing Director, Andhra Pradesh State Road Transport Corporation Vs. Kathavath Gopal*** [6], coordinate bench of erstwhile High Court held that compensation

[5] 2017 (16) SCC 680
[6] 2003 (5) ALD 198

towards the expenditure incurred and transportation cannot be denied even though treatment was given in the Government Hospital and one cannot be expected to produce evidence proving the actual expenditure and hence, some reasonable hypothesis cannot be ruled out. Learned Tribunal rightly considered medical expenses at Rs.60,000/- and the same shall be taken into consideration.

iv) **Attendant Charges:** In view of the judgment of Hon'ble Apex Court in ***R.D.Hattangadi Vs M/s. Pest Control (India) Private Limited and Others***[7], the Court need not be mathematical in calculating expenses towards home attendant, but ought to look upon the circumstances prevailing in the society to decide the amount and in the present case at hand, the petitioner took treatment and underwent surgeries, was advised bed rest and also follow up treatment, and as such, he is entitled to attendant charges for 12 months, which is assessed at Rs.12,000/-.

**v) Loss of Conveyance:** In ***Sidram Vs. The Divisional Manager, United India Insurance Company Limited and another***[8] (Supra), the Hon'ble Apex Court held at para No.89 as follows:

> "89. Hence, we may grant the appellant loss of conveyance and special diet up to Rs.50,000/- considering that after the accident at Kulgod-Gokak Road, the appellant was shifted to Lake view Hospital Belgaum wherein he was admitted as an indoor patient from 18.07.2012 to 06.08.2012 for 19 days, and took treatment for the injuries suffered by him, and continued to take the treatment after getting discharged from the Hospital as well."

In view of the injuries sustained by the petitioner and period of treatment taken by her, an amount of Rs.20,000/- is awarded towards conveyance.

**II) Non-Pecuniary Damages:**

[7] 1995 1 SCC 551
[8] (2022) 8 SCR 403

**(i) <u>Pain and Suffering:</u>**

***The Divisional Controller, KSRTC v. Mahadeva Shetty and Another[9],*** the Hon'ble Apex Court held thus:

> *"A person not only suffers injuries on account of accident but also suffers in mind and body on account of the accident throughout his life and a feeling is developed that he is no more a normal man and cannot enjoy the amenities of life as another normal person can. While fixing compensation for pain and suffering as also for loss of amenities of life the features like his age, marital status and unusual deprivation he has undertaken in his life has to be reckoned".*

In view of the injuries and permanent disability sustained by the petitioner and the period of treatment taken by her, an amount of Rs.4,00,000/- is awarded towards pain and suffering.

**<u>(ii) Loss of Amenities:</u>**

In ***Pappu Deo Yadav Vs. Naresh Kumar and others[10]***, the Hon'ble Apex Court held thus:

> "The principle consistently followed by this court in assessing motor vehicle compensation claims, is to place the victim in as near a position as she or he was in before the accident, with other compensatory directions for loss of amenities and other payments. These general principles have been stated and reiterated in several decisions (Govind Yadav Vs. New India Insurance Co Limited, (2011) 10 SCC 683."

Having regard to the injuries and treatment, an amount of Rs.1,00,000/- is awarded towards loss of amenities.

Further, in ***Govind Yadav Vs. New India Insurance Co Limited[11]***, Hon'ble Apex Court held thus:

> "18. In our view, the principles laid down in Aravind Kumar Mishra Vs. New India Assurance Company Limited (2010) 10 SCC 264 and Raj Kumar Vs. Ajay Kumar must be followed by all the Tribunals and the High Courts in determining the quantum of compensation payable to the victims of

[9] 2003 (7) SCC 197
[10] AIR 2020 SCC 4421
[11] (2011) 10 SCC 683

> accident, who are disabled either permanently or temporarily . If the victim of the accident suffers permanent disability, then efforts should always be made to award adequate compensation not only for the physical injury and treatment, but also for the loss earning and his inability to lead a normal life and enjoy amenities, which he would have enjoyed but for the disability caused due to the accused".

(k) So, in all, the petitioner is entitled to the compensation as follows:

| S.No. | HEADS | | CALCULATION |
|---|---|---|---|
| **I** | **Pecuniary damages:** | | |
| i) | Loss of earnings due to disability (4,500 X 12 X 13 X100/100) (future) | Rs. | 7,02,000.00 |
| ii) | Future Prospects (7,02,000X 25/100) | Rs. | 1,75,500.00 |
| iii) | Loss of earnings (past) | Rs. | 56,000.00 |
| iv) | Medical expenses | Rs. | 60,000.00 |
| v) | Attendant charges | Rs. | 12,000.00 |
| vi) | Conveyance | Rs. | 20,000.00 |
| vii) | Future medical expenses or artificial limbs | Rs. | 75,000 |
| | Total | | 11,00,500.00 |
| **II** | **Non Pecuniary expenses:** | | |
| vii) | Pain and suffering | Rs. | 4,00,000.00 |
| viii) | Loss of amenities | Rs. | 1,00,000.00 |
| | Total | | 5,00,000.00 |
| | TOTAL (pecuniary+non-pecuniary damages) (11,00,500+5,00,000) | Rs. | 16,00,500.00 |

(l) In this court's well considered view that in accordance with the propositions of law laid down by the Hon'ble Apex Court, the compensation of Rs.16,00,500.00/- is just and reasonable. It is needless to say that though the petitioner claimed compensation of Rs.12,00,000/-, in view of the settled principles of law, just and fair compensation is to be awarded to the petitioner.

(m) So far as the liability of the respondents is concerned, it is to be noted that a finding is already recorded in issue No.1, holding that driver of bus bearing No.AP 11 Z 2500 was solely responsible for the accident and

respondent No.2/APSRTC is vicariously liable to indemnify the liability of respondent No.1/driver. Hence, this issue is answered, holding that the respondent Nos.1 and 2 are jointly and severally liable to pay compensation.

**12. Point No.3:**

Upon reappraisal of the evidence on record, and for the foregoing reasons, this court came to the conclusion that the learned Tribunal erred in assessing the quantum of compensation and as such, the same is liable to be modified. Hence, this point is answered accordingly.

**13. Point No.4:**

(i) **In the result**, this Motor Accident Civil Miscellaneous Appeal is dismissed, while modifying the order of the learned Tribunal by enhancing the compensation from **Rs.15,75,960/- (Rupees Fifteen Lakhs Seventy Five Thousand Nine Hundred and Sixty Only) to Rs.16,00,500.00/- (Rupees Sixteen Lakhs Five hundred only)** together with interest at the same rate as awarded by the Tribunal, from the date of the claim petition till the date of realization, subject to payment of additional court fee on **Rs.4,00,500/- (Rupees Four Lakhs Five Hundred Only)** by the petitioner before the Registry within thirty (30) days from today.

(ii) Time for deposit, as aforesaid, with interest, excluding the amount, if any, already deposited, is one (1) month from the date of receipt of a copy of this judgment.

(iii) On such deposit, the petitioner is permitted to withdraw the compensation as awarded supra along with accrued interest thereon, excluding the amount, already paid.

(iv) There shall be no order as to costs.

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

**SUNITHA GANDHAM, J**

Dt: 02.11.2026

Vns

**Whether the order is :**

✓
Speaking Yes/No / Reasoned Yes/No

✓
Reportable Yes/No / Non-Reportable Yes/No