



HIGH COURT OF ANDHRA PRADESH
TUESDAY ,THE FOURTH DAY OF JULY
TWO THOUSAND AND TWENTY THREE

PRSENT

THE HONOURABLE SRI JUSTICE VENUTHURUMALLI GOPALA KRISHNA RAO

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 1123 OF 2013

Between:

1. RANGALI SATYAVATHI, VSP DIST & 4 OTHERS W/o. Late Ramana, Hindu, Aged 49 years Occ: Household
2. Boddu Venkatalakshmi W/o Sanyasi Naidu, Hindu, Aged years Occ: Household
3. Kalla Devi W/o. Krishna, Hindu, Aged 29 years Occ: Household
4. Aditeddi Padmi W/o. Suryanaraya, Hindu, Aged 27 years Occ: Household
5. Bandaru Krishnaveni W/o. Rama Rao, Hindu, Aged 25 years Occ: Household
ALL R/o. Medicharla (V) K. Kothapadu Mandal,
Vishakapatnam District

...PETITIONER(S)

AND:

1. BODDU RAMANNA DORA, VSP DIST & ANO S/o. China Suri Devudu, Hindu,
Aged: Major Occ: Bussiness
R/o. Medicharla (V) K. Kothapadu Manda,
Vishakapatnam District.
6. The United India Insurance Company Limited., Represented by its Branch
Manager, Anakapalli.

...RESPONDENTS

Counsel for the Petitioner(s): JAYANTI S C SEKHAR

Counsel for the Respondents: N PARAMESWARA REDDY

The Court made the following: ORDER



THE HON'BLE SRI JUSTICE V.GOPALA KRISHNA RAO

M.A.C.M.A.No. 1123 of 2013

JUDGMENT:

Aggrieved by the impugned order dated 16.02.2013 of the Chairman, Motor Accident Claims Tribunal-cum-IX Additional District Judge (Fast Track Court), Visakhapatnam, passed in M.V.O.P.No.464 of 2012 whereby the Tribunal dismissed the claim petition against the respondents, the instant appeal has been preferred by the appellants/petitioners.

2. For the sake of convenience, both the parties in the appeal will be referred to as they are arrayed in the claim application.

3. Facts germane to dispose of the appeal may briefly be stated as follows:

On 17.07.2011 at about 5.00 a.m. the deceased, by name, Rongali Ramana, was proceeding to Talupulamma Temple in an auto bearing registration No.AP 31X 9250 and when he reached



Baligettam village at about 7.30 a.m., the driver of the auto drove the auto at high speed in a rash and negligent manner and in the process of diverting a cyclist, the auto turned turtle. As a result of which, the deceased sustained grievous injuries and on 28.07.2011 he succumbed to injuries while undergoing treatment in the K.G.H., Visakhapatnam.

4. A case in Crime No.176 of 2011 of Narsipatnam (T) P.S. was registered against the driver of the offending vehicle in connection with the said accident under Section 304-A of I.P.C.. Eventually, after completion of investigation, the police found that the accident occurred due to rash and negligent driving of the auto bearing registration No.AP 31X 9250 by its driver. So, the police filed a charge sheet against the driver of the auto for the offence punishable under Section 304-A of I.P.C.

5. The 1st appellant is wife and appellant Nos.2 to 5 are daughters of the deceased. They laid a claim for compensation of Rs.5,00,000/- before the Tribunal against the owner of the auto and



insurer of the auto i.e., United Insurance Company Limited (for short 'Insurance company') as 1st and 2nd respondents respectively.

6. The 1st respondent was set *ex parte*. The 2nd respondent filed a counter by denying the manner of accident, age, avocation and income of the deceased. It is pleaded that appellants Nos.2 to 5 are not entitled to claim compensation because they are married and living separately.

7. Based on the above pleadings, the Tribunal framed the following issues for trial:

1. Whether the death of the deceased Rongali Ramana was due to the accident and whether the alleged accident occurred due to the rash and negligent driving of the driver of the auto bearing regd.No.AP 31X 9250?
2. Whether the petitioners are entitled for the compensation, if so, to what amount and from which of the respondents?
3. To what relief?

8. During the course of enquiry in the claim petition, on behalf of the appellants/petitioners, P.Ws.1 and 2 were examined and



Exs.A.1 to A.7 were marked. On behalf of the 2nd respondent/Insurance company, no oral or documentary evidence was adduced.

9. At the culmination of the enquiry, after considering the evidence on record and on appreciation of the same, the Tribunal found that there was a delay in lodging the first information report and the reasons for the delay were not at all explained by the petitioners and accordingly, the Tribunal dismissed the claim petition. Assailing the legal validity of the said order of the Tribunal, this appeal is preferred by the petitioners.

10. Heard learned counsels for both the parties.

11. The proceedings before the Motor Accident Claims Tribunal are in the nature of summary enquiry, whereas in a criminal case the prosecution has to prove the case beyond shadow of reasonable doubt.



12. The paramount question that falls for adjudication in this appeal is, whether the delay in lodging the first information report is a ground to doubt the case of the petitioners?.

13. In order to prove the rash and negligent driving of the driver of the offending auto, the petitioners relied on the evidence of P.Ws.1 and 2 and relied on Ex.A.1-first information report, Ex.A.2-post-mortem examination report, Ex.A.3-M.V.I.report and Ex.A.4-charge sheet.

14. **It is well settled that delay in lodging the FIR cannot be a ground to doubt the claimant's case.** Human nature and family responsibilities occupy the mind of kith and kin to such an extent that they give more importance to get the victim treated rather than to rush to the police station. Under such circumstances, they are not expected to act mechanically with promptitude in lodging the FIR with the police. **Delay in lodging the FIR thus, cannot be the ground to deny justice to the victim.**



15. The legal position in this regard has been well settled. The Hon'ble Apex Court in the case of **Ravi Vs. Badrinayan**¹ had an occasion to deal with the similar issue. In the said case, it is held as under:

“Lodging of FIR certainly proves the factum of accident so that the victim is able to lodge a case for compensation but delay in doing so cannot be the main ground for rejecting the claim petition. In other words, although lodging of FIR is vital in deciding motor accident claim cases, delay in lodging the same should not be treated as fatal for such proceedings, if claimant has been able to demonstrate satisfactory and cogent reasons for it.”

16. As stated supra, in the instant case, in order to prove the rash and negligent driving of the driver of the offending auto, the petitioners relied on the evidence of P.Ws.1 and 2. P.W.1 is the wife of the deceased. Though P.W.1 is not an eye witness to the accident, she narrated in her evidence that immediately after the accident on 17.07.2011, her deceased husband was shifted to the

¹ (2011) 4 SCC 693



Government Hospital at Narsipatnam, and thereafter, he was shifted to the K.G.H., Visakhapatnam for treatment and admitted into Neuro Surgeon Ward and he underwent treatment from 17.07.2011 to 28.07.2011 under the supervision of Dr. B.H. Rao, HOD., K.G.H., Visakhapatnam, due to head injury, and he died on 28.07.2011 while taking treatment.

17. Another important point is that P.W.2, who travelled in the offending vehicle along with the deceased and others on 17.07.2011, stated in his evidence that the driver of the auto drove the same in a rash and negligent manner, due to that, the auto turned turtle, resulting in the deceased sustaining grievous injury on his head, neck and backbone, that the deceased also received simple injuries, that immediately, the deceased was shifted to the Government Hospital at Narsipatnam and thereafter, shifted to the K.G.H., Visakhapatnam, later he died on 28.07.2011 while taking treatment from 17.07.2011. It was not suggested to P.W.2 in cross-examination by the learned counsel for the 2nd respondent/Insurance company that no such accident was occurred.



It was simply suggested to P.W.2 in cross-examination by the learned counsel for the Insurance company that to help the petitioners, he is deposing falsehood. The said suggestion is denied by P.W.2. In Ex.A.2-charge sheet also, P.W.2 is cited as a witness to the accident.

18. Ex.A.1-first information report goes to show that after occurrence of the accident, the S.H.O., Narsipatnam (T) P.S. registered a case in Crime No.176 of 2011 under Section 304-A of I.P.C. against the driver of the offending vehicle. Ex.A.4-charge sheet filed by the police clearly reveals that the Sub-Inspector of Police, Narsipatnam (T) P.S. investigated into accident in question and after completion of investigation, the Investigating Officer laid the charge sheet against the driver of the offending vehicle. Ex.A.2-post-mortem examination report also supports the case of the petitioners that the death of the deceased occurred in a road accident. Ex.A.3-M.V.I. report also shows that the accident occurred not due to any mechanical defects of the offending vehicle. To rebut the evidence of P.W.2 and to disprove Exs.A.1 to A.4, the 2nd



respondent/Insurance company did not choose to adduce any evidence.

19. The 1st respondent was set *ex parte*. To disprove Exs.A.1-FIR and A.4-charge sheet, the Insurance company did not summon the Sub-Inspector of Police before the Tribunal. Moreover, there is no whisper in the counter of the 2nd respondent/Insurance company that there was a delay in lodging the first information report by the petitioners and that the accident is very much doubtful. Therefore, there is no force in the contention of the counsel for the 2nd respondent/Insurance company that the accident is highly doubtful.

20. From the foregoing discussion, I am of the considered view that the accident in question occurred due to rash and negligent driving of the driver of the offending auto. Therefore, the finding of the Tribunal that the accident is highly doubtful is not sustainable under law.

21. Ex.A.5 is a copy of policy. Ex.A.6 is a copy of driving licence of the driver of the offending vehicle. Ex.A.7 is a copy of certificate for



registration of the offending vehicle. These documents go to show that the offending vehicle was insured with the 2nd respondent/Insurance company and the policy was also in force at the time of accident, the driver of the offending vehicle was also having valid driving licence, the vehicle was fit to travel on the roads, and that there were no violations of the conditions of the policy.

22. The petitioners are claiming compensation of Rs.5,00,000/-. As per the case of the petitioners, the deceased was aged about 55 years and he used to earn Rs.6,000/- per month by doing cultivation. Absolutely, no evidence was produced by the petitioners to show that the deceased used to earn Rs.6,000/- p.m. The accident occurred in the year 2011. In those days, an ordinary coolie aged about 55 years can easily earn at least Rs.100/- to Rs.150/- per day. Therefore, the monthly income of the deceased is arrived at Rs.3,600/- i.e., Rs.43,200/- per annum. The dependants on the deceased are four in number. Therefore, 1/4th from out of the annual income has to be deducted towards personal and living expenses of the deceased. If it is so deducted, the annual contribution to the



family members of the deceased is arrived at Rs.32,400/- (Rs.43,200/- - Rs.10,800/-). As stated supra, the deceased was aged about 55 years as on the date of accident. So, the relevant multiplier applicable to the age group of the deceased is “11”, as per the judgment of the Hon’ble Supreme Court in **Sarla Varma Vs. Delhi Transport Corporation**² and the loss of dependency is arrived at Rs.3,56,400/- (Rs.32,400/- x 11). Further, the 1st petitioner is awarded a sum of Rs.30,000/- towards loss of consortium and an amount of Rs.10,000/- is awarded towards funeral expenses of the deceased. Thus, the petitioners are entitled to compensation of Rs.3,96,400/- from the respondents. Therefore, the award passed by the Tribunal is not sustainable under law and the same is liable to be set aside.

23. In the result, the appeal is partly allowed and the order and decree dated 16.02.2013 passed by the Chairman, Motor Accident Claims Tribunal-cum-IX Additional District Judge (Fast Track Court), Visakhapatnam in M.V.O.P.No.464 of 2012 are hereby set aside.

² 2009 (4) SCJ 91



Consequently, M.V.O.P.No.464 of 2012 is allowed in part awarding compensation of Rs.3,96,400/- to the petitioners with proportionate costs and interest @ 7.5 per annum from the date of petition till the date of deposit by the respondents. Out of total compensation of Rs.3,96,400/-, the 1st petitioner is entitled to Rs.2,36,400/- along with total costs and accrued interest thereon and petitioner Nos.2 to 5 are entitled to Rs.40,000/- each along with accrued interest thereon. The respondents are directed to deposit the compensation amount with costs and interest before the Tribunal, within two months from the date of this judgment. On such deposit, the petitioners are entitled to withdraw their respective shares of compensation amount. No order as to costs in the appeal.

Miscellaneous petitions, if any, pending in this appeal shall stand closed.

V.GOPALA KRISHNA RAO, J

4th July, 2023

Note: L.R. copy be marked.

(b/o)

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HON 'BLE SRI JUSTICE V.GOPALA KRISHNA RAO

M.A.C.M.A.No. 1123 of 2013

4th July, 2013

cbs



HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

M.A.C.M.A.No. 1123 of 2013

Between:

Rangali Satyavathi and others

.. Appellants

Vs.

Boddu Ramanna Dora and another

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 04.07.2023

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE V. GOPALA KRISHNA RAO

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No
2. Whether the copies of judgment may be marked to Law Reporters/Journals? Yes/No
3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? Yes/No

V. GOPALA KRISHNA RAO, J



*THE HON'BLE SRI JUSTICE V. GOPALA KRISHNA RAO

+M.A.C.M.A.No. 1123 of 2013

% 04-07-2023

Rangali Satyavathi and others

.. Appellants

Vs.

\$ Boddu Ramanna Dora and another

.. Respondents

<GIST:

>HEAD NOTE:

! Counsel for appellants

: Mr. Jayanthi S.C.Sekhar

^ Counsel for respondent No.1

: None appeared

^ Counsel for respondent No.2

: Mr.K.MadhusudhanReddy

? CASES REFERRED :

1) (2011) 4 SCC 693

2) 2009 (4) SCJ 91

