



HIGH COURT OF ANDHRA PRADESH
TUESDAY ,THE ELEVENTH DAY OF APRIL
TWO THOUSAND AND TWENTY THREE

PRSENT

THE HONOURABLE SRI JUSTICE B V L N CHAKRAVARTHI

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 3205 OF 2017

Between:

1. APSRTC Rep. by its Depot Manager
Maddilapalem Bus Depot, Visakhapatnam
2. APSRTC JANURM Rep. by Vice Chairman -cum- Managing Director
Musheerabad, Hyderabad
Now at Vijayawada

...PETITIONER(S)

AND:

1. Sirugudi Narayanamma W/o S.Appa Rao Aged about 51 years, residing
at
D.No. 9-38-94, Rayappalem
Bheemunipatnam, Visakhapatnam
3. Sirugudi Appa Rao S/o Late Ramaswamy
Aged about 53 years, residing at
D.No. 9-38-94, Rayappalem
Bheemunipatnam, Visakhapatnam
4. Palaka Sankara Rao S/o Late Sanyasi Rao -
Staff No. 741579, Driver of APSRTC Bus No.
AP-11Z-6309 (City Route No. 500) aged about 40 years
Residing at D.No. 2-19-23/2, Vijayaramarajupeta
Aakapalli, Visakhapatnam

...RESPONDENTS

**Counsel for the Petitioner(s): VINOD KUMAR TARLADA (SC FOR
APSRTC)**

Counsel for the Respondents: RANI MUPPVARAPU

The Court made the following: ORDER



HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

M.A.C.M.A.No.3205 OF 2017

Between:

1. APSRTC, Rep. By its Depot Manager,
Maddilapalem Bus Depot,
Visakhapatnam.
2. APSRTC. JANURM,
Rep. By Vice Chairman-cum-
Managing Director, Musheerabad,
Hyderabad, now at Vijayawada.

.... **APPELLANTS**

Versus

1. Sirugudi Nagayanamma, W/o.S.Apparao,
Hindu, Aged 51 years, R/o.D.No.9-38-94,
Rayapalem, Bheemunipatnam,
Visakhapatnam.
2. Sirugudi Apparao, S/o.Late Ramaswamy,
Hindu, Aged 53 years, R/o.D.No.9-38-94,
Rayapalem, Bheemunipatnam,
Visakhapatnam.
3. Palaka Sankara Rao, S/o.Late Sanyasi Rao,
Staff No.741579, Driver of APSRTC Bus
Bearing No.AP 11Z 6309 (City Route No.500),
R/o.D.No.2-19-23/2, Vijayaramarajupetam,
Aakapalli, Visakhapatnam.

.... **RESPONDENTS**

DATE OF JUDGMENT PRONOUNCED : 11.04.2023



SUBMITTED FOR APPROVAL:

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

1. Whether Reporters of Local Newspapers
may be allowed to see the Judgment? Yes/No
2. Whether the copy of Judgment may be
marked to Law Reporters/Journals? Yes/No
3. Whether His Lordship wish to see the
fair copy of the Judgment? Yes/No

B.V.L.N.CHAKRAVARTHI, J



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

+ M.A.C.M.A.No.3205 OF 2017

% 11.04.2023

Between:

1. APSRTC, Rep. By its Depot Manager,
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R/o.D.No.2-19-23/2, Vijayaramarajupetam,
Aakapalli, Visakhapatnam.

.... RESPONDENTS

! Counsel for the Appellants : Sri Vinod Kumar Tarlada

**^ Counsel for the
Respondents No.1 & 2** : Smt.Rani Muppavarapu



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> Head Note:

? Cases referred:

- 1. 2009 ACJ 1298**
- 2. (2017) 16 SCC 680**
- 3. 2018 ACJ 2782**
- 4. 2019 ACJ 1849 (SC)**

This Court made the following:



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

M.A.C.M.A.No.3205 OF 2017

JUDGMENT:

This appeal is preferred by respondents No.2 and 3/APSRTC, challenging the award dated 27.09.2017 passed in M.V.O.P.No.16/2016 on the file of Motor Accidents Claims Tribunal-cum-I Addl.District Judge, Visakhapatnam, wherein the Tribunal while allowing the petition, awarded a compensation of Rs.15,00,000/- with interest @ 7.5% p.a. from the date of petition, till the date of realisation for the death of Sirugudi Suresh in a motor vehicle accident.

2. For the sake of convenience the parties are arrayed as parties before the tribunal.

3. As seen from the record, originally the petitioners filed an application U/s.166 of the Motor Vehicles Act, 1988 (for brevity "the Act") claiming compensation of Rs.15,00,000/- on account of the death of Sirugudi Suresh, in a motor vehicle accident that occurred on 01.05.2015.

4. The facts would show that on 01.05.2015 when Sirugudi Suresh (deceased) was returning to his house on motor cycle bearing No.AP 31 CQ 8065 to purchase gold ornaments, the driver of APSRTC Bus



bearing No.AP 11Z 6309 drove the same in a rash and negligent manner and dashed behind him at opposite Central Bank, Sri Sai Vignan School, Seethammampeta Main Road, Visakhapatnam, causing head injury and other grievous injuries all over body, and as a result, Sirugudi Suresh died instantaneously.

The deceased used to contribute his earnings to the family and he is looking after the welfare of his parents and the petitioners have lost their son's love and affection for their entire life. The deceased was aged 27 years at the time of accident. The petitioners depended on the income of the deceased and due to the death of the said deceased, they lost the financial help. The IV Town Traffic Police Station, Visakhapatnam registered a case in Cr.No.48/2015 U/s.304-A of Indian Penal Code against the driver of APSRTC Bus bearing No.AP 11Z 6309. The 1st respondent is the driver of APSRTC Bus, 2nd respondent is the Depot Manager and 3rd respondent is the Managing Director of APSRTC, and all the respondents are jointly and severally liable for the compensation.

5. Before the Tribunal, the 1st respondent filed counter, denying the material averments of the petition, contending that there was gross negligence on the part of deceased by overtaking the bus from the left side and dashed a stationed car and lost balance and fell down on



back wheel of the bus, and therefore, the petitioners are not entitled for compensation.

6. The respondents No.2 and 3 filed common counter resisting the petition, while traversing the material averments with regard to proof of age, avocation, monthly earnings of the deceased, manner of accident, rash and negligence on the part of the driver of the offending vehicle, liability to pay compensation, and contended that the driver of APSRTC Bus did not drive the bus in a rash and negligent manner, and that the petition is liable to be dismissed with exemplary costs.

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

1. Whether the deceased died in the motor accident occurred on 01.05.2015 due to rash and negligent act of the driver of the APSRTC Bus bearing No.AP 11Z 6309?

2. Whether the petitioners are entitled for compensation? if so, to what amount and from which of the respondents?

3. To what relief?

8. To substantiate their claim, the petitioners examined P.Ws-1 to 3 and got marked Exs.A-1 to A-9 and Exs.X-1 to X-5. No oral or documentary evidence was adduced on behalf of the respondents No.1 to 3.



9. The Tribunal, taking into consideration the evidence of P.Ws-1 to 3, coupled with Exs.A-1 to A-9 and Exs.X-1 to X-5, held that the accident took place due to the rash and negligent driving of the driver of RTC Bus i.e., 1st respondent, and further, taking into consideration the evidence of P.Ws-1 to 3, corroborated by Exs.A-1 to A-9 and Exs.X-1 to X-5, awarded a compensation of Rs.15,00,000/- with interest @ 7.5% p.a. from the date of petition, till the date of realisation against the respondents No.1 to 3.

10. The contention of the appellant/APSRTC in the appeal is that the Tribunal did not appreciate the evidence properly and erred in holding that the accident occurred due to rash and negligent driving of the APSRTC bus driver (R-1 in the appeal). The other contention of the appellant is that the Tribunal though no evidence is produced by the claimants, erroneously fixed the income of the deceased at Rs.9,500/- per month, and awarded excessive compensation to the claimants.

11. In the light of above rival contentions, the points that would arise for consideration in the appeal are as under:

1. Whether the accident did not occur due to rash or negligence of the driver of the APSRTC Bus bearing No. AP11Z 6309 ?
2. Whether the Tribunal awarded excessive compensation to the claimants?



3. To what relief?

12. **POINT No.1:**

The case of the claimants is that the deceased was returning to home on his motor cycle on 01.05.2015 at about 05.30 p.m. and when he reached the scene of offence, i.e opposite to Central Bank, Sri Sai Vignan School, Seethammapeta Main Road, Visakhapatnam; the driver of APSRTC Bus bearing No.AP 11Z 6309 was proceeding towards Gurudwar Junction from Dwaraka Nagar; he drove the bus in a rash and negligent manner and dashed the motor cycle of the deceased from behind; as a result, the deceased fell down from the motor cycle and sustained a head injury and other injuries all over body and died on the spot; P.W-2 witnessed the accident; police registered a case in Cr.No.48/2015 (Ex.A-1 is copy of FIR); police after conclusion of investigation, laid police report (charge sheet) against the driver of the bus for the offence punishable U/s.304-A of Indian Penal Code (Ex.A-5 is copy of charge sheet); the claimants are mother and father of the deceased; hence, they filed the claim petition U/s.166 of M.V.Act;

13. The appellant/APSRTC contends that the deceased drove the motor cycle in a rash and negligent manner; he tried to over take the



bus from left side; he dashed a stationed car, lost balance and fell down under the rear wheel of the bus and died.

14. The claimants to establish that the accident was occurred due to rash and negligent driving of the bus driver, examined P.W-2, an eye witness to the accident.

15. P.W-2 in the chief-examination affidavit stated that on 01.05.2015, he was present outside his saloon and witnessed the accident, which occurred near his shop. He further stated that the driver of the bus was negligent, and without blowing horn, at high speed dashed the motor cycle of the deceased from behind. The appellant/APSRTC cross-examined P.W-2, but did not elicit anything to probable it's plea. In fact, no suggestion was given to P.W-2 about the case pleaded by the appellant/APSRTC. It is an admitted fact that the police registered a case in Cr.No.48/2015, proved by Ex.A-1 copy of FIR placed before the Tribunal. It is also an admitted fact that the police after conclusion of investigation laid police report (charge sheet) for the offence punishable U/s.304-A of Indian Penal Code against the driver of the appellant/APSRTC (R-3 in the appeal).

16. The appellant/APSRTC did not choose to examine its driver to depose about the way in which the accident occurred. The



1st respondent/driver filed counter before the Tribunal, but did not adduce any evidence denying the case of the claimants.

17. In the light of above facts and circumstances of the case, it can be held that the accident occurred due to the rash and negligent driving of the driver of the APSRTC Bus bearing No.AP 11Z 6309. Hence, there are no grounds to interfere with the finding of the Tribunal on this aspect. Accordingly, the point is answered.

18. **POINT No.2:**

The case of the claimants is that the deceased was working as a Gold Appraiser in Kanaka Durga Finance Limited, and receiving a sum of Rs.9,500/- per month towards salary. The claimants in order to establish the income of the deceased examined the Manager of Kanaka Durga Finance Limited, as P.W-3. He placed Exs.X-1 to X-5 before the Tribunal. They would establish that the deceased was working as a Gold Appraiser in Kanaka Durga Finance Limited at the relevant point in time. Ex.X-1 is appointment letter dated 05.02.2013, issued much prior to the date of accident. The above firm also produced copy of attendance registered placed as Ex.X-2. It would establish that the deceased attended the office in the month of February, March and April 2015, and further, the above firm also produced copy of salary



slip, apart from Provident Fund Slips for the months of March and April, 2015 and ESI deduction slip for the month of April 2015, which would support the case of the claimants that he was working in Kanaka Durga Finance Limited during the relevant period of time and receiving a sum of Rs.9,500/- per month towards his salary. The appellant/APSRTC did not elicit anything in the cross-examination of P.W-3 to probable their plea that the deceased was not receiving the salary. Therefore, the claimants by examining P.W-3 and placing Exs.X-1 to X-5, Ex.A-7 and other documents, established the income of the deceased as Rs.9,500/- per month. In that view of the matter, there are no grounds to interfere with the finding of the Tribunal on this aspect.

19. The age of the deceased was also proved by the claimants as 27 years as on the date of accident. They filed educational certificates vide Ex.A-8 B.Sc Computer Course Certificate, apart from inquest report and post mortem report.

20. In view of the judgment of the Hon'ble Apex Court in the case of **Sarla Verma and another Vs. Delhi Road Transport Corporation and others**¹, the multiplier applicable in this case is '17', since the age

¹ 2009 ACJ 1298



of the deceased was 27 years as on the date of death. Thereby the loss of dependency is arrived at Rs.9,500 x 12 x 17 = Rs.19,38,000/-. Admittedly, the deceased was unmarried at the time of accident. Hence, 50% of his income shall be deducted towards his personal expenses, which would come to Rs.19,38,000 - 9,69,000 = Rs.9,69,000/-. Therefore, there are no grounds to interfere with the amount awarded towards loss of dependency by the Tribunal.

21. In view of the judgment of the Honble Apex Court in the case of **National Insurance Company Limited Vs. Pranay Sethi**², the claimants are entitled to future prospects @ 50% on the established income of the deceased, as the deceased is below 40 years at the time of death, which is Rs.9,69,000/2 = Rs.4,84,500/-. The claimants are also entitled to a sum of Rs.15,000/- towards funeral expenses and a sum of Rs.15,000/- towards loss of estate as per the above judgment.

22. It is an admitted fact that the claimants are the mother and father of the deceased. In view of the judgment of Hon'ble Apex Court in the case of **Magma General Insurance Company Limited Vs. Nanu Ram @ Chuhru Ram and others**³, the claimants are entitled to

² (2017) 16 SCC 680

³ 2018 ACJ 2782



filial consortium @ Rs.40,000/- each. Therefore, in all the claimants are entitled to Rs.9,69,000 + 4,84,500 + 1,10,000 = Rs.15,63,500/- towards just compensation. The Tribunal awarded Rs.15,00,000/- as compensation. In that view of the matter, the contention of the appellant/APSRTC that the Tribunal awarded excessive compensation, is not valid on facts as well as in law.

23. The Tribunal awarded interest at 7.5% p.a. from the date of petition, till the date of realisation. This Court do not find any ground to interfere with the rate of interest awarded by the 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**⁴. Accordingly, this point is answered.

24. **POINT No.3:** To what relief?

In the light of the findings on points No.1 and 2, the appeal is liable to be dismissed.

25. In the result, the appeal is dismissed, by confirming the order and decree dated 27.09.2017 passed in M.V.O.P.No.16/2016 on the

⁴ 2019 ACJ 1849 (SC)



file of Motor Accidents Claims Tribunal-cum-I Addl.District Judge,
Visakhapatnam. There shall be no order as to costs.

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

B.V.L.N.CHAKRAVARTHI, J

11.04.2023

psk



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

M.A.C.M.A.No.3205 OF 2017

11th April, 2023

psk