



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

[3367]

MONDAY ,THE SECOND DAY OF DECEMBER  
TWO THOUSAND AND TWENTY FOUR

PRESENT  
THE HONOURABLE SRI JUSTICE V SRINIVAS

**MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL**  
**NO: 919/2019**

**Between:**

Oriental Insurance Company

...APPELLANT

AND

Dasari Satyanarayana and Others

...RESPONDENT(S)

**Counsel for the Appellant:**

K MADHUSUDHAN REDDY

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

1. PARIMI RAMA RAYUDU
2. VINOD KUMAR TARLADA (SC FOR APSRTC)
3. SOMA RAJU YELISETTI

**The Court made the following:**

**JUDGMENT:**

This appeal is directed against the order of the Chairman, Motor Vehicle Accident Claims Tribunal-cum-IX Additional District Judge, West Godavari at Kovvur (hereinafter called as 'the Tribunal') in M.V.O.P.No.136 of 2015 dated 04.02.2019.

2. The **appellant is the insurer of the Bus bearing** No.AP 37 Y 5577 (hereinafter referred to as "crime bus"). The

respondent Nos.1 and 2 are the parents of one Dasari Harikrishna Sainath (hereinafter called as “deceased”). The respondent Nos.3 to 5 is the driver, owner and hirer of the said crime bus respectively.

3. For the sake of convenience, the parties hereinafter referred to as they arrayed before the tribunal.

4. The case of the claimants, in the petition before the Tribunal is that:

i). On 18.11.2012 at about 09.00 p.m., while the deceased along with one Matta Ramakrishna proceeding in an auto from Aurangabad to Nidadavole, when they reached between Vadapalli and Bangarammapeta Village on Kovvur to Vijeswaram Godavari river bund road, the crime bus driven by its driver in a rash and negligent manner dashed the auto in opposite direction, resulted, the deceased sustained severe injuries. Then the

deceased was shifted to G.G.H., Rajahmundry, wherein he was declared dead.

ii). Being dependents, they claimed compensation of Rs.9,00,000/- against the driver, owner, hirer and insurer of the crime bus.

5. The respondent No.3/insurer filed written statement denying the averments in the petition and pleaded that the respondent No.1 is not having valid driving license to drive the crime bus; that the accident occurred due to the negligence of the driver of the auto, but not 1<sup>st</sup> respondent; that the crime bus was taken on hire by the 4<sup>th</sup> respondent/APSRTC, thereby, RTC alone liable to pay compensation, thereby, prayed to dismiss the petition against this respondent.

6. The respondent No.4/APSRTC/hirer filed written statement denying the averments in the petition and pleaded that the owner and insurer of the bus alone liable to pay

compensation to the claimants and thereby, prayed to dismiss the petition against this respondent.

7. The Tribunal settled the following issues for enquiry basing on the material:

- “1. Whether the accident occurred on 18.11.2012 at 9 p.m., between the villages Vadapalli and Bangarammapeta in which the deceased Dasari Harikrishna Sainath died due to rash and negligent driving of A.P.S.R.T.C. hire bus bearing No.AP 37 Y 5577 by R1?
2. Whether the petitioners are entitled for compensation, If so, how much and from whom? and
3. To what relief?”

8. During enquiry, on behalf of the claimants, PWs.1 and 2 were examined, Exs.A.1 to A.5 were exhibited. On behalf of the respondents, R.Ws.1 to 4 were examined and Exs.B.1 to B.3, X.1 to X.3 were marked.

9. On the material, the Tribunal, having come to the conclusion that the accident occurred due to the negligent driving of the crime bus by the 1<sup>st</sup> respondent, held that the

claimant is entitled for the compensation of Rs.9,00,000/-, with interest at 9% per annum from the date of petition till the date of realization against the respondent Nos.1 and 2 only, for the death of the deceased in the accident. The claim against respondent Nos.3 and 4 is dismissed. However, directed the respondent No.3/insurer to pay the compensation to the claimants and then recover the same from the owner of the vehicle by filing execution petition.

10. It is against the said award; the present appeal was preferred by the appellant/insurer.

11. Heard Sri K.Madhusudhan Reddy, learned counsel for the appellant/insurer, Sri Parimi Rama Rayudu, learned counsel for the respondent No.1/claimant and Sri Vinod Kumar Tarlada, learned Standing Counsel for the respondent No.5/APSRTC.

12. Now, the point that arises for determination is “whether the order of the Tribunal is liable to be set aside, if so, to what extent?”

13. **POINT:**

It is not in dispute about the death of the deceased in the incident, involvement of crime bus, rash and negligent driving of the crime bus, the crime vehicle was validly insured with the appellant/insurer by the time of accident under Ex.B.1 and the same was running on hired basis under the APSRTC. It is a fact that no appeal was preferred by the claimants, owner and hirer of the crime bus against the findings of the Tribunal.

14. The contentions of the learned counsel for the appellant/insurer is that in the absence of valid driving license to the 1<sup>st</sup> respondent to drive the crime vehicle, the appellant/insurer is not liable to pay any compensation to the claimants, thereby, the Tribunal erred in ordering pay and recovery against the appellant/insurer; that the respondent No.4/hirer is alone liable to pay compensation to the claimants; that the Tribunal erred in calculating the

compensation entitled by the claimants, thereby, prays to consider the present appeal.

15. In view of the testimony of R.W.3 coupled with Exs.X.2 and X.3, it is an undisputed fact that 1<sup>st</sup> respondent driver of the crime bus is not having valid driving license to drive the same, thereby, respondent No.2/owner violated the terms of the policy, as such, the Tribunal dismissed the claim against appellant/insurer. However, the Tribunal ordered pay and recovery against the appellant by relying upon the pronouncement of this Court, which does not require any interference in view of the categorical observations made by the Hon'ble Supreme Court in **Manuara Khatun v. Rajesh Kumar Singh**<sup>1</sup>, wherein the Apex Court referred and relied on its earlier pronouncement in **National Insurance Company Limited v. Saju P.Paul**<sup>2</sup> at paragraph Nos.15 and 21 that:

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<sup>1</sup> (2017) 4 SCC 796

<sup>2</sup> (2013) 2 SCC 41

“15.....This Court keeping in view the benevolent object of the Act and other relevant factors arising in the case, issued the directions against the Insurance Company to pay the awarded sum to the claimants and then to recover the said sum from the insured in the same proceedings by applying the principle of “pay and recover.

21. In view of the foregoing discussion, we are of the view that the direction to United India Insurance Company (Respondent No. 3) - they being the insurer of the offending vehicle which was found involved in causing accident due to negligence of its driver needs to be issued directing them (United India Insurance Co. Ltd. Respondent No.3) to first pay the awarded sum to the appellants (claimants) and then to recover the paid awarded sum from the owner of the offending vehicle (Tata Sumo) Respondent No.1 in execution proceedings arising in this very case as per the law laid down in Para 26 of *Saju P. Paul's* case quoted supra.” (emphasis supplied)

16. Having regard to the above categorical precedents, in view of the facts and circumstances of the case, since it is benevolent legislation and Ex.B.1 policy issued in respect of

the crime vehicle is in force by the time of incident, a direction can be issued against the insurer of the crime vehicle to pay the awarded sum to the claimants at first instance and then recover the same from the insured/owner/2<sup>nd</sup> respondent, because as stated supra the accident occurred only due to the rash and negligent driving of the crime vehicle by its driver, resulted death of the deceased. Thereby, the Tribunal rightly ordered pay and recovery against the appellant/insurer.

17. Coming to the liability to pay the compensation is concerned, as per the terms and conditions of Ex.B.3 Agreement condition No.5(iv) the owner shall liable for all claims, as per condition No.5(ii) the owner shall keep his vehicle duly insured comprehensively and as per condition No.5(iii) it is mutually agreed that the corporation shall not be responsible for any damage or loss caused to the vehicle hired during the period of accidents etc. Thereby, the hirer is not liable to pay any compensation to the claimants and the

insurer of the crime bus is only liable to pay the said compensation in view of Ex.B.1 policy.

18. Now it is relevant to make note a pronouncement of Hon'ble Supreme Court in ***U.P. State Road Transport Corporation v. Rajenderi Devi***<sup>3</sup>, wherein at paragraph No.30 and 31 held as follows:

“30. Thus, for all practical purposes, for the relevant period, the Corporation had become the owner of the vehicle for the specific period. If the Corporation had become the owner even for the specific period and the vehicle having been insured at the instance of original owner, it would be deemed that the vehicle was transferred along with the insurance policy in existence to the Corporation and thus the Insurance Company would not be able to escape its liability to pay the amount of compensation.

31. The liability to pay compensation is based on a statutory provision. Compulsory insurance of the vehicle is meant for the benefit of the third parties. The liability of the owner to have compulsory

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<sup>3</sup> 2020 LawSuit (SC) 429

insurance is only in regard to third party and not to the property. Once the vehicle is insured, the owner as well as any other person can use the vehicle with the consent of the owner. Section 146 of the Act does not provide that any person who uses the vehicle independently, a separate insurance policy should be taken. The purpose of compulsory insurance in the Act has been enacted with an object to advance social justice.”

19. In view of the above settled legal position and facts of the case, as discussed supra, it is clear in vivid terms that the APSRTC can be exonerated from its liability to pay compensation. Thereby, the conclusion arrived by the Tribunal that in view of Ex.B.3 agreement, the claim against APSRTC is dismissed, requires no interference.

20. Now, coming to the just compensation, it is the case of the claimants that the deceased was earning Rs.10,000/- per month as coolie. But in the absence of substantial material on record to prove the actual income of the deceased, the Tribunal after considering the facts and circumstances of the case, rightly taken the notional income of the deceased at Rs.6,000/-

per month as per the provision of Minimum Wages Act, which does not require any interference.

21. Further as per the precedent of Hon'ble Supreme Court in ***National Insurance Company Limited v. Pranay Sethi***<sup>4</sup>, the Tribunal rightly awarded future prospects while calculating the compensation entitled by the claimants by deducting the personal and living expenses from the income of the deceased. Thereby, the Tribunal rightly calculated quantum of compensation entitled by the claimants.

22. Viewing from any angle, this Court is of the considered opinion that no interference warrants to the findings recorded by the Tribunal regarding all aspects, as there is no need to disturb the well-articulated order passed by the Tribunal, the appeal preferred by the appellant is liable for dismissal. Thus, the point is answered against the appellant/insurer of the crime bus.

23. In the result, M.A.C.M.A. is dismissed. There shall be no order as to costs.

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<sup>4</sup> 2017 (6) ALT 60 (SC)

Interim orders granted earlier if any, stand vacated.

Miscellaneous petitions pending if any, stand closed.

**JUSTICE V.SRINIVAS**

Date: 02.12.2024  
Krs

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**THE HON'BLE SRI JUSTICE V.SRINIVAS**

**M.A.C.M.A.No.919 of 2019**

DATE: 02.12.2024

Krs