APHC010109252019

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3505]**
(Special Original Jurisdiction)

THURSDAY,THE EIGHTEENTH DAY OF JUNE
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 279/2019

Between:

1. APSRTC, REP. BY ITS REGIONAL MANAGER, RAJAHMUNDRY DEPOT, RAJAHMUNDRY, E.G.DIST

...APPELLANT

AND

1. GANIREDDY SURYANARAYANA, S/O LATE POTHU RAJU AGED ABOUT 47 YEARS, RESIDENT OF D.NO. 2-104 GEETHA MANDIRAM, PASIVEDALA VILLAGE KOVUR MANDAL, WEST GODAVARI DISTRICT
2. GANIREDDY LAKSHMI, W/O SURYANARAYANA AGED ABOUT 43 YEARS, RESIDENT OF D.NO. 2-104 GEETHA MANDIRAM, PASIVEDALA VILLAGE KOVUR MANDAL, WEST GODAVARI DISTRICT
3. PERUMALLA SRINU, S/O APPA RAO AGED ABOUT 45 YEARS, DRIVER OF APSRTC BUS BEARING NO. AP-05-Z-5027 RESIDENT OF D.NO. 14-14-13, SRIRAM COLONY, KOVVUR WEST GODAVARI DISTRICT
4. SHAIK NOORJAHAN, D/0 SHAIK BAJI AGED ABOUT 45 YEARS, RESIDENT OF PASIVEDALA VILLAGE, KOVVUR MANDAL WEST GODAVARI DISTRICT

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Courtpleased to allow the appeal by setting aside the Judgment and Decree passed by the

Motor Accidents Claims Tribunal cum IX Additional District Judges Court, West Godavari at Kovvur passed in MVOP NO. 128 of 2016 dated 09-10-2018

IA NO: 1 OF 2019

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 pleased to condone the delay of 55 days in filing the Appeal against the Judgment and Decree passed by Motor Accidents Claims Tribunal-CUM-IX Additional District Judges Court, West Godavari at Kovvur passed in M.V.O.P No. 128 OF 2016 dated 09.10.2018

IA NO: 2 OF 2019

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 pleased to grant stay of execution of Decree passed by the Motor Accidents Claims Tribunal-CUM-IX Additional District Judges Court, West Godavari at Kovvur passed in M.V.O.P No. 128 OF 2016 dated 09.10.2018 pending disposal of the above M.A.C.M.A No. /2019

Counsel for the Appellant:

1. VINOD KUMAR TARLADA (SC FOR APSRTC)

Counsel for the Respondent(S):

1. NAMBURI SREEMANNARAYANA

JUDGMENT:-

The present appeal is filed by the appellant/Andhra Pradesh State Road Transport Corporation, aggrieved by order dated 09.10.2018 passed in M.V.O.P. No.128 of 2016 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-IX Additional District Judge, West Godavari at Kovvur.

2. For the sake of convenience, the parties are referred to as they were referred before the Tribunal.

3. The petitioners filed petition under Section 166 of the Motor Vehicles Act, 1988, read with the Rules made thereunder, claiming compensation of Rs.9,00,000/- on account of the death of their son one Sri G. Arjun (hereinafter referred to as “the deceased”) who died in the accident, in which the offending bus belong to the appellant/respondent bearing Reg.No.AP-05-Z-5027 was involved.

4. The facts leading to the case on hand are as follows:

5. It is the case of the petitioners that on 15.08.2016, the deceased was travelling on motor cycle so as to attend the duty at Rajahmundry. When he reached near the Pole No.26 L on Road-cum-Railway bridge, the driver of the offending bus drove the same in a rash and negligent manner at high speed, came in wrong direction and dashed the deceased. As a result of which, the deceased fell down on the road and received grievous injuries and died on the spot.

6. It was the further case of the petitioners that the deceased was aged about 28 years as on the date of accident and he had completed I.T.I. and was working in Petrol Bunk. It was the further case of the petitioners that the deceased was earning Rs.10,000/- per month and they were dependants of the deceased. In view of the sudden demise of the deceased, the petitioners lost their source of income and thereby they approached the Tribunal by filing the above petition seeking to pay compensation of Rs.9,00,000/- together with interest.

7. Respondent No.1/the driver of the offending bus filed counter affidavit disputing the claim of the petitioners stating that the accident was occurred due to the negligence of the deceased. It was further contended that the 1st respondent took all precautions, despite the same, the deceased drove the motorcycle in a rash and negligent manner and thereby, the accident was occurred. It was further contended that the deceased himself was responsible for the accident and therefore the petitioners are not entitled to receive any compensation as claimed.

8. A separate counter-affidavit was filed by the 2nd respondent-A.P.S.R.T.C. denying liability on the ground that there was no negligence on the part of the respondent No.1. It was *inter-alia* contended that the petitioners have to prove that Respondent No.3 is the legally wedded wife of the deceased, the education qualification and earnings of the deceased. With the above pleadings, the respondents prayed to dismiss the claim petition.

9. In order to prove the case of the petitioners, the father of the deceased was examined as P.W.1, and one Sri L.V.V.Satyanarayana, who was the eye-witness to the accident was examined as P.W.2. They also filed documentary evidence, which were marked as Exs.A1 to A8. On the other hand, the driver of the offending bus was examined as R.W.1 and no documentary evidence was marked on behalf of the respondents.

10. Considering the pleading, oral and documentary evidence put forth by the parties, the Tribunal, by order under challenge, awarded an amount of Rs.7,44,000/- as compensation together with interest @ 9 % per annum from the date of the petition till the date of realization. Aggrieved by the quantum of compensation awarded by the Tribunal, the present appeal is filed by the respondent/APSRTC.

11. Heard Sri Vinod Kumar Tarlada, learned counsel for the appellant, and Sri Zampani Bhanu Raja, learned counsel representing Sri Namburi Sreemannarayana, learned counsel for the respondents/claimants.

12. Perused the record.

13. The learned counsel for the appellant would submit that the accident was occurred due to the rash and negligent driving of the deceased himself and there was no negligence on the part of the driver of the offending bus as alleged.

14. In order to prove the said contention, the driver of the offending bus was examined as R.W.1. A perusal of the evidence of R.W.1 would show that he has deposed in tune with the averments made in the counter affidavit. In such circumstances, the evidence of the R.W.1 cannot be taken into consideration.

15. On the other hand, the petitioners have examined one Sri L.V.V. Satyanarayana, eye-witness to the accident as P.W.2. A perusal of the evidence of P.W.2 would show that the accident occurred due to the negligence of the driver of the offending bus.

16. Though the P.W.2 was cross-examined at length, nothing was elicited to disprove his evidence and the same was remained un-shattered. Apart from the same, the petitioners have also filed copies of F.I.R. and charge sheet, which were marked as Ex.A1 and A5. A perusal of the contents of the said documents would clearly go to show that the accident was occurred due to the negligence of the R.W.1. On overall consideration of oral and documentary evidence placed by the petitioners, it is succinctly clear that the accident was occurred due to the negligence of driver of the offending bus. For the above reasons, the contention of the appellant cannot be accepted and the same is hereby rejected.

17. Coming to the quantum of compensation, it was the specific case of the petitioners that the deceased has studied I.T.I. and he was working in petrol bunk at Rajahmundry.

18. Further in order to substantiate the educational qualifications of the deceased, the petitioners have filed copies of SSC marks list and I.T.I. certificate, which were marked as Ex.A6 and A7.

19. From the above, it is clear that the deceased had completed I.T.I. and was working in the petrol bunk at Rajahmundry and the same is also deposed by P.W.1 in his evidence. Apart from the same, the petitioners have also filed copy of the driving licence of the deceased, which was marked as Ex.A8.

20. Further though the appellant has disputed the income of the deceased, as already noted supra, nothing is placed on record to substantiate its contention. In the absence of any evidence adduced on its behalf, the contention of the appellant cannot be countenanced and accordingly, the same is rejected.

21. Further the Tribunal after appreciating the oral and documentary evidence of the petitioners have rightly fixed the income of the deceased as Rs.5,000/- per month and awarded compensation of Rs.7,44,000/- under various conventional heads. Though it was contended by the learned counsel for the appellant that the same was excessive, as already recorded supra, no documentary evidence has been placed on record to disprove the evidence of the petitioners/respondents.

22. For the foregoing reasons, this Court does not find any illegality or infirmity in the order under challenge and accordingly, the Motor Accident Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs.

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

JUSTICE T.C.D. SEKHAR

Dt: 18.06.2026
PGT