

HONOURABLE SRI JUSTICE A. RAMALINGESWARA RAO

M.A.C.M.A.No. 3074 OF 2008

DATED 9TH December, 2015

BETWEEN

The General Manager, APSRTC, Mushierabad,
Hyderabad

...Appellant

And

Smt. Oram Parameela and ors

...Respondents.

HONOURABLE SRI JUSTICE A. RAMALINGESWARA RAO

M.A.C.M.A.No.3074 OF 2008

JUDGMENT:

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Though a letter was filed by the learned Counsel for the respondents-claimants for referring the matter to the Lok-Adalat for amicable settlement, the learned Counsel for the appellant-APSRTC argued the matter on merits.

This appeal is preferred by the respondent-APSRTC in OP.No.104 of 2004 on the file of the Motor Accident Claims Tribunal-cum-Principal District Judge, Medak, at Sangareddy. The respondents 1 to 4 herein are the claimants in the aforesaid OP who filed the same claiming compensation of Rs.6,00,000/- which was enhanced to Rs.9,00,000/- on account of death of one Oram Laxminarayana, who is the husband of the first respondent and father of respondents 2 to 4.

It was alleged in the claim petition that on 16.8.2002 at about 11 PM when the husband of the first respondent was waiting in front of Swapna Electric Shop at Madaram Chowrasta, a bus bearing No. AP.9Z.8591 belonging to APSRTC being driven by its driver in rash and negligent manner dashed him, due to which, he sustained grievous injuries and succumbed to the same while shifting to hospital. The police registered a case in Crime No. 13/2002 against the driver of the bus. It was alleged that the deceased was aged about 46 years as on the date of accident and was working as Fan Driver in Singareni Collieries on a monthly salary of Rs.10,500/-.

The APSRTC filed a counter affidavit stating that when the bus was going slowly, a person in an inebriated condition, who was sitting in front of electrical shop, suddenly fell under rear left tyre of the bus and sustained injuries and that the driver of the bus is not responsible for the accident.

Based on the aforesaid averments, the Tribunal framed the following issues for settlement.

1. Whether the accident occurred due to rash and negligent driving of the driver of crime vehicle ?
2. Whether the petitioners are entitled for compensation, if so, at what quantum and from whom ?
3. To what relief ?

On behalf of the claimants, P.Ws.1 and 2 were examined and Exs.A.1 to A12 were marked. On behalf of the APSRTC, R.Ws.1 and 2 were examined and Ex.B.1 was marked.

The Tribunal, based on the oral and documentary evidence, found that the accident occurred due to the rash and negligent driving of the bus by its driver and accordingly awarded compensation by taking the monthly income of the deceased at Rs.9,809/-, after deducting 1/3rd of his earnings towards his personal living expenses and applying the multiplier 9.89 an amount of Rs.7,06,320/- towards loss of contribution to his family. The Tribunal also awarded an amount of Rs.15,000/- towards loss of consortium to the first respondent/wife of the deceased and Rs.15,000/- towards loss of estate. Thus in all, the Tribunal awarded compensation of Rs.7,36,000/-.

Challenging the said Award, on the grounds of contributory negligence and quantum of compensation, the APSRTC preferred the present appeal.

The learned Standing Counsel for the appellant-APSRTC submits that in view of the evidence of R.Ws. 1 and 2, which was not taken into consideration by the Tribunal, it can be concluded that the accident occurred due to the negligence of the deceased himself. He further submits that the amount of compensation awarded by the Tribunal is excessive.

The Tribunal noticed based on the evidence of P.W.2 who was an eye witness to the accident that the accident occurred due to rash and negligent driving of the bus by its driver. The attention of this Court was not drawn by the learned Counsel for the appellant-APSRTC to any specific part of evidence, either oral or documentary in respect of the plea of the appellant/APSRTC. In fact no copy of depositions of the

claimants or its witnesses was filed. In the circumstances this Court is not inclined to interfere with the finding of fact recorded by the Tribunal in regard thereto.

With regard to quantum of compensation, there is no dispute with regard to the monthly salary of the deceased. The amount of compensation awarded by the Tribunal is based on the laws governing the field as on the date of judgment by the Tribunal. If present governing law is applied as per the recent decisions of the Apex Court, the amount of compensation needs to be enhanced. In view of the same. challenge made by the appellant/APSRTC to the quantum of compensation also fails.

For the foregoing discussion, the MACMA is dismissed. Miscellaneous petitions pending consideration if any in the appeal shall stand closed in consequence. No order as to costs.

JUSTICE A. RAMALINGESWARA RAO

DATED 9th September, 2015.
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