

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

MACMA No. 1267 OF 2012

Judgment:

The respondents 2 and 3 – APSRTC preferred the instant appeal, under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), aggrieved by the order, dated 08.11.2010, passed in MVOP No.435 of 2009 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-Additional District Judge, Vizianagaram, granting a sum of Rs.4,33,000/-, with interest at 7.5% p.a., thereon, as compensation for the death of one Nukala Butchirao (hereinafter referred as 'deceased'). The wife and children of the deceased are the petitioners before the Tribunal.

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the Original Petition.

3. Relevant facts are that on 11.03.2009, the deceased boarded the RTC bus bearing registration No.AP-11Z-4273 at Poosapatirega to attend his duty at HBL Company, Kandivalasa village. When the bus reached near Kandivalasa Gedda on NH-5 road at about 21.25 hours and while he was getting down from the bus the first respondent moved the bus in a rash and negligent manner, as a result, he fell down from the bus and sustained grievous injuries all over his body. He was shifted to Government Headquarters Hospital, Vizianagaram and he succumbed to injuries on the next day i.e., on 12.03.2009. The petitioners claim that the deceased was working as a contract

labour in HBL Company, earning Rs.200/- per day and was aged 34 years as on the date of accident and, therefore, they sought compensation of Rs.5,00,000/-, under Section 166 of the Act read with Rule 455 of the Rules made thereunder, from the respondents 1 to 3 who are the driver of RTC bus, the Depot Manager of local depot and Managing Director of the Corporation.

4. The third respondent filed counter, whereas other respondents have adopted it. They opposed the claim disowning their liability to pay compensation besides contending that the amount sought towards compensation was excessive and arbitrary and sought to dismiss the claim.

5. Basing on the said pleadings, the Tribunal framed three issues about the responsibility for the accident and during enquiry the first petitioner, besides examining herself as PW.1 also examined one A. Jyothi Prasad, an eye witness to the occurrence, and marked Exs.A1 to A4 in order to substantiate their claim for compensation. On behalf of the respondents, the first respondent examined himself as RW.1 and no documents were marked.

6. The Tribunal, on appraisal of evidence of PW.1 and RW.1, supported by Exs.A1 and A3, which are certified copies of FIR and charge sheet laid against RW.1, held issue No.1 in favour of the petitioners.

7. On issue No.2, the Tribunal, while disagreeing with the stand of the petitioners that the deceased used to earn Rs.200/- on daily wage, fixed the daily wage at Rs.100/- and worked out

the annual income at Rs.36,000/-, deducted 1/3rd there from towards personal expenses of the deceased and Rs.24,000/- was taken towards contribution to the family. The Tribunal, applying '17' multiplier by taking the age of the deceased at 34 years as per the II Schedule to Section 163-A of the Act, determined the compensation at Rs.4,08,000/- towards loss of dependency, besides granting Rs.15,000/- towards loss of estate, Rs.5,000/- towards funeral expenses and Rs.10,000/- towards loss of consortium and, thus, a total sum of Rs.4,33,000/- was granted with 7.5% interest thereon against the respondents 1 to 3 fastening the liability jointly and severally on them.

8. It is the aforesaid order which is under challenge by the APSRTC mainly contending that, the Tribunal instead of applying the multiplier '16' has applied the multiplier '17'. Therefore, sought to modify the order and decree passed by the Tribunal.

9. No representation for the appellants – APSRTC despite listing the matter to this day from 13.02.2015 and printing the name of Sri S.V. Ramana, learned Standing Counsel for RTC. Therefore, Sri G. Sai Narayana Rao, learned counsel for the respondents, is heard to dispose of the appeal on merits.

10. The grounds of appeal reflect that only one ground is raised agitating the multiplier contending that the Tribunal applied wrong multiplier and multiplier '16' is appropriate as per the principles laid down in cases of motor vehicle accidents and nothing else is agitated against the findings recorded by the

Tribunal on other aspects of the claim.

11. There is substance in the ground for the reason that the Hon'ble Supreme Court in a decision reported in **Sarla Verma v. Delhi Transport Corporation**^[1], formulated a table which shows for the age group of persons between 31 and 35 the relevant multiplier '16' is mentioned under vertical column No.4. Therefore, to that extent the order passed by the Tribunal, which is under challenge, warrants interference. Thus, when instead of multiplier '17', multiplier '16' is applied, the loss of dependency is worked out to Rs.3,84,000/-. The Tribunal granted Rs.15,000/- towards loss of estate, Rs.5,000/- towards funeral expenses and Rs.10,000/- towards loss of consortium which, in fact, are not disputed. Therefore, confirming the same, the amount of compensation is reduced from Rs.4,33,000/- to Rs.4,14,000/-. The rate of interest granted by the Tribunal is not challenged, hence 7.5% interest as granted by the Tribunal is confirmed.

12. Accordingly, the MACMA is partly allowed to the extent as mentioned above. There shall be no order as to costs.

13. As a sequel thereto, the Miscellaneous Applications, if any, pending in this appeal shall stand closed.

A. SHANKAR NARAYANA, J

Date: 27.02.2015
Nsr

^[1] (2009) 6 SCC 121

