

THE HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

C.M.A.No.1522 of 2004

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JUDGMENT:

The claimants, 3 in number, who are none other than the husband and 2 minor children of the deceased, by name Sudha @ Madduri Vanaja Kumari, of the accident dated 26.12.2000, which is the outcome of rash and negligent driving on the part of the 2nd respondent-driver of the 1st respondent-A.P.S.R.T.C. Bus bearing registration No.AP 09Z 6118 in the claim maintained under Section 166 of Motor Vehicles Act, 1988 before the Motor Accidents Claims Tribunal-cum-II Additional District Judge, Madanapalli, Chittoor District (for brevity "the Tribunal") for Rs.5,00,000/-, since awarded by the Tribunal of Rs.97,000/- with interest at 9% per annum by Award and decree dated 13.01.2004 in O.P.No.67 of 2001, impugning the said quantum as utterly low and untenable, also regarding the multiplier adopted and the multiplication arrived, with a prayer to allow the claim, as prayed for, maintained the appeal with the self-same contentions in the grounds of appeal and the learned counsel for appellants reiterated the same in the course of hearing.

2. Whereas, it is the contention of Sri K.V. Subba Reddy, learned Standing Counsel for 1st respondent-A.P.S.R.T.C., for the bus relates to the Piler Depot of Chittoor District, that the Tribunal gravely erred in finding negligence on the part of the driver of the bus, instead of holding no fault, that the compensation awarded itself is more than just and there is nothing to enhance, but for to reduce the rate of interest, for which no cross-objections are required as per settled law and thereby sought for dismissal of the appeal by reducing the rate of interest.

3. Perused the material on record. The parties are being referred to as they are arrayed before the Tribunal.

4. Now the points that arise for consideration are:--

(i) Whether the compensation awarded by the Tribunal is utterly low, but to enhance the same and, if so, with what amount and with what rate of interest?

(ii) To what result?

In re. Point No.1 :

5. So far as the finding that the accident was the result of rash and negligent driving on the part of the 2nd respondent-driver of the 1st respondent-A.P.S.R.T.C. bus is concerned, from the material on record, including with reference to Ex.A.4 certified copy of charge sheet, and Ex.A.1 certified copy of F.I.R., and the evidence of P.Ws.1 and 2, from the factum of the deceased was one of the passengers in the bus, the outcome of rash and negligent driving of the driver of the bus, who sustained head injury therefrom and succumbed while undergoing treatment, is nothing but the outcome of the rash and negligence of the driver of the bus, thereby for this Court, while sitting in appeal, with that finding of the Tribunal, there is nothing to interfere, but for the quantum and rate of interest, if any.

6. No doubt, in para-26 of the averments in the claim petition, it is claimed that the deceased was not only working as a Teacher in Anganwadi vide Ex.A.6 Salary Certificate and the evidence of P.W.2 on a salary of Rs.531/- per month, and Ex.X.2 receipt of payment of 3 months salary, their claim is that the deceased was, in all, earning nearly Rs.4,000/- per month, however, there is no other proof regarding the deceased was also attending weaving work and cultivation. The accident was dated 26.12.2000. It is laid down by the Apex Court in LATHA WADHWA Vs. STATE OF BIHAR, even the domestic contribution of a house-wife can be taken at Rs.3,000/- per month. However, in this case, except filing Ex.A.6 salary certificate, no other proof is filed regarding the other work being carried on by the deceased. Having regard to the above, this Court feels it just to take the earnings of the deceased at Rs.2,100/- per month, including as Anganwadi Worker, besides domestic contribution, instead of what the Tribunal has taken of Rs.531/- per month only. If 1/3 is deducted therefrom, it comes to Rs.1,400/- per month x 12 months x multiplier '17' that is applicable, as the deceased was 28 years old as on the

date of accident, as per Ex.A.2 Postmortem Certificate, then it comes to Rs.2,85,600/- + loss of consortium to the 1st claimant Rs.1,00,000/- and funeral expenses at Rs.25,000/- as per the latest expression of the Apex Court in RAJESH v. RAJBIR SINGH + Loss of Estate Rs.10,000/-, thus, the just compensation to be awarded is Rs.4,20,600/-, however, by reducing the rate of interest from 9% per annum to 7.5% per annum from the date of the claim petition till realization, as per the decision in the case of RAJESH (supra).

7. Accordingly, point No.1 for consideration is answered.

In re. Point No.2 :

8. Accordingly and in the result, the appeal is partly allowed by enhancing the compensation from Rs.97,000/- to Rs.4,20,600/- and by reducing rate of interest from 9% to 7.5% per annum from date of petition till realisation. There is no order as to costs.

9. Miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. JUSTICE B. SIVA SANKARA RAO

29.04.2015.

Msr

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