HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A.No.948 of 2005

JUDGMENT

The instant appeal is preferred by the respondent-Andhra Pradesh State Road Transport Corporation represented by its Managing Director aggrieved of the order dated 07.08.2003 in O.P.No.864 of 2000 on the file of Motor Accidents Claims Tribunal-cum-District Judge, Warangal, whereby and where-under the Tribunal awarded a sum of Rs.4,20,000/-as compensation as against the claim of Rs.8,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988, for the death of one Durginala Rama Rao, who was working as Booking Conductor in the very same Corporation, occurred in a road accident.

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

3. The facts, in brief, are that on 09.01.1999, while the deceased was proceeding on a scooter from Arepally to Hanamkonda, near Orugallu Vidyalayam main gate, an RTC bus bearing No.AP 10 Z 893 driven by its driver in a rash and negligent manner, came and dashed his scooter, due to which, he fell down and died instantly. The petitioners being the wife and son projecting that the deceased was aged 37 years earning Rs.6,500/-per month, sought the above mentioned compensation.

4. The second and third respondents were also added as parties claiming that they are the children of deceased through his first wife, but they were impleaded during the pendency of the

proceedings in O.P.

5. The first respondent opposed the claim contending that when the bus reached the gate, a bullock cart came in front of it, during which time, a lorry was coming in opposite direction, then the driver of the bus slowed down it and taken to the extreme left side. In the meanwhile, three persons came on a scooter in a rash and negligent manner and dashed the bus while trying to overtake the lorry. Thus, the Corporation disowned the rashness or negligence attributed to the driver of the RTC bus. The Corporation also sought the petitioner to prove the age and income of the deceased and stating that the claim is excessive and untenable, sought to dismiss the claim petition.

6. The second and third respondents filed counter contending that the first petitioner is the step mother of second respondent and that they are entitled for their respective shares in the compensation.

7. The Tribunal framed three issues about the responsibility for the accident. During enquiry, the first petitioner examined herself as P.W.1 besides examining an eyewitness to the accident as P.W.2 and marked Exs.A1 to A6 to substantiate her claim. On behalf of the contesting respondent, no witnesses were examined and no documents were marked.

8. The Tribunal, on appraisal of evidence on record, held that there was rash and negligent driving of the driver of the RTC bus, which caused the accident resulting the death of the deceased and held issued No.1 in favour of the petitioners.

9. On issue No.2, the Tribunal having taken the age of the

deceased as 45 years and from Ex.A5 finding that he was drawing a gross salary of Rs.4,383/- and finding the deductions at Rs.2,983/- and the take home salary as Rs.1,445/-, by placing reliance on the decision in **Savitri Devi v. Pala Ram**[1] **,** fixed the earnings at Rs.3,200/-per month and arrived at Rs.3,90,000/- towards loss of dependency adding Rs.15,000/-towards non-pecuniary damages and Rs.15,000/-towards loss of consortium and arrived at a total amount of Rs.4,20,000/- as compensation to the petitioners, and second and third respondents and also apportioned a sum of Rs.20,000/-towards the share of the second respondent and Rs.1,50,000/-towards the share of the second petitioner and the third respondent and balance amount towards the share of the first petitioner by assigning reasons and also given suitable directions as to withdrawal of the amounts.

10. It is the aforementioned order, which is under challenge in the instant appeal preferred by the Corporation contending in the grounds of appeal that the Tribunal ought to have taken the salary of the deceased at Rs.1,445/-per month and without proper appreciation of evidence on record, granted excess compensation and, therefore, sought to set aside the order challenged and reduce the compensation.

11. Heard Sri B. Mayur Reddy, learned Standing Counsel for APSRTC. No representation for respondents 1 and 2. None appears for respondents 3 and 4.

12. The facts are not in dispute and even the determination of compensation by the Tribunal is also not in dispute. Though, it is contended by the learned counsel for the appellant that the carry home salary ought to have taken into consideration, Ex.A5 makes

it clear that there were temporary deductions made towards clearance of loans and the GPF amount was more than Rs.900/- per month. Thus, viewed from any angle, certainly, the amount of Rs.3,200/- taken by the Tribunal as contribution to the family, cannot be faulted with. The Tribunal has rightly deducted Rs.700/- towards personal expenses of the deceased and taken Rs.2,500/- towards contribution to the family. In fact, as per the decision of the Apex Court in **Sarla Verma v. Delhi Transport Corporation**[2], since the family members are four in number, 1/4th deduction is permissible towards personal expenses and the relevant multiplier is '14' as against '13' applied by the Tribunal. Hence, the compensation determined by the Tribunal can neither be construed as excessive nor arbitrary as sought to be projected by the Corporation. Concerning interest, in view of the ratio laid down by the Apex Court in **Rajesh and others v. Rajbir Singh and others**[3]**,** in which 7.5% is fixed, the interest granted by the Tribunal is reduced from 9% to 7.5% per annum.

13. In the result, the appeal is allowed in part as indicated above, only to the extent of reducing interest from 9% to 7.5% per annum while confirming the order passed by the Tribunal in all respects. No order as to costs. Miscellaneous petitions, if any, pending in this appeal shall stand closed.

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A. SHANKAR NARAYANA, J

10th March, 2015
sj

[1] 2000 ACJ 935

[2] **(2009) 6 SCC 121**

[3] **2013ACJ1403 = 2013(4)ALT35**