

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1022 OF 2005

JUDGMENT:

Feeling that the compensation of Rs.3,03,980/- awarded by the order dated 29.10.2004 in O.P. No.1166 of 2000 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-District Judge, Nizamabad (for short, 'the Tribunal'), as against the claim of Rs.4,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') for the death of one Jangam Nagarajam, who was husband of respondent No.1 and father of respondent Nos.2 and 3, as high and excessive, preferred the instant appeal by the Andhra Pradesh State Road Transport Corporation (for short, 'the Corporation') under Section 173 of the Act seeking to set aside the same.

2. Appellant Nos.1 and 2 herein, who are the Managing Director and Depot Manager of the Corporation, are respondent Nos.1 and 2, while respondent Nos.1 and 2 herein, who are the claimants, are respondent Nos.1 and 2, respectively, in the original petition.

3. For the sake of convenience, the parties hereinafter referred to as they were arrayed before the Tribunal in the original petition.

4. The facts in brief are that on 19.08.2000, one Jangam Nagarajam (hereinafter referred to as 'deceased')

was travelling in an auto bearing registration No.AP 25T 8174 from Kamareddy to go to Bhiknoor, though, the auto driver was running it slowly on the left side of the road, when it reached Bhiknoor territorial limits on national highway No.7 on Hyderabad to Nagpur road at about 7-15 p.m., an RTC bus bearing registration No.AP 10Z 7545 belonging to the Corporation driven at high speed in a rash and negligent manner came in the opposite direction and hit it, due to which, the deceased sustained head injury and other multiple injuries and he was being shifted to Government Hospital, Kamareddy and while undergoing treatment he succumbed to injuries on the same day. The petitioners, being wife and children of the deceased, contending that he used to earn Rs.8,000/- per month as agriculturalist-cum-vegetable vendor, sought a sum of Rs.3,00,000/- as compensation against respondent Nos.1 and 2 jointly and severally.

5. Both the respondents filed a detailed counter and resisted the claim by raising various pleas.

6. Basing on the said pleadings, the Tribunal framed the following issues about the responsibility for the accident:

"1) Whether the accident has taken place due to rash and negligent driving of the vehicle bearing No. AP-10/Z-7545 by its driver ?

2) Whether the petitioners are entitled for

compensation? If so, to what just amount and from which of the respondents?

3) To what relief ?"

7. During enquiry, petitioner No.1 examined herself as P.W.1 besides examining J.Rajamouli and I.Vittal Reddy as P.Ws.2 and 3 to prove the negligent driving of the driver of the accident vehicle and earnings of the deceased, and marked Exs.A.1 to A.8 to substantiate their claim; whereas, on behalf of the respondents, the driver of the bus, by name Pochaiah, was examined as R.W.1 and no documents were marked.

8. The Tribunal, on appreciation of evidence on record, both, oral and documentary, let in by the parties, recorded finding on issue No.1 that due to the rash and negligent driving of the bus only, the accident had occurred.

9. On issue No.2, the Tribunal taking the age of the deceased as 50 years, owning Acs.5-02 gts of land excluding the evidence in regard to income by way of documentary evidence filed by the petitioners, arrived the daily earnings of the deceased at Rs.150/- and deducting 1/3rd therefrom towards personal expenses, arrived the contribution to the family at Rs.100/- per day, Rs.3,000/- per month and Rs.36,000/- per annum, and taking the age of the deceased as 50 years as on the date of accident

and placing reliance on the decision of this Court in **Bhagwan Das v. Mohd. Arif**^[1], applied multiplier 7.68 and arrived the loss of dependency at Rs.2,76,480/-. Besides the same, the Tribunal granted Rs.15,000/- towards loss of consortium, Rs.2,500/- towards funeral expenses and Rs.10,000/- towards loss of estate. Thus, a total sum of Rs.3,03,980/- was granted with interest at 9% per annum from the date of petition till realization by apportioning the amount amongst the petitioners and also giving suitable directions for withdrawal of the amounts.

10. It is the aforesaid order which is under challenge in the instant appeal contending in the grounds that the Tribunal has not properly appreciated the evidence of R.W.1 and that R.W.1 was not questioned nor contradicted by the claimants in his cross-examination and even the Tribunal has fixed Rs.150/- as daily wages without there being concrete material on record and, therefore, sought to set aside the award.

11. Heard Sri N.Vasudeva Reddy, learned Standing Counsel for the appellant-Corporation. There is no representation on behalf of the respondents.

12. Perused the order under challenge and the evidence available on record, both, oral and documentary. In recording finding that there was negligence on the part of the driver of the bus in

occasioning the accident, the Tribunal has properly appreciated the evidence mainly basing on the probability that R.W.1 never gave any complaint to the police, whereas the charge sheet was filed against R.W.1 on the complaint given by the eyewitness and that finding is well reasoned and cannot be disturbed and, thus, it is confirmed.

13. Turning to the earnings, the Tribunal has taken daily wage of the deceased at Rs.150/- relying on overall evidence on record, which finding also does not warrant any interference. Further, the Tribunal has not granted any amount towards future prospects and applied multiplier 7.68 based on the decision rendered by this Court in **Bhagwan Das's** case (supra 1). In fact, relevant multiplier for the age group of persons between 50 and 46 years is '13' as per the table formulated in the decision of the Hon'ble Apex Court in **Sarla Verma & others v. Delhi Transport Corporation and another**^[2]. Thus, viewed from any angle, there is no merit at all in the instant appeal warranting interference of this Court.

14. Concerning the rate of interest, the Tribunal has granted interest at 9% per annum. The Hon'ble Apex Court in **Rajesh and others v. Rajbir Singh and others**^[3], laid down interest at 7.5% as reasonable. Hence, the rate of interest awarded by the Tribunal at 9%

is reduced to 7.5% on the compensation amount awarded by the Tribunal from the date of petition till realization.

15. Accordingly, the instant appeal is allowed in part confirming the award of compensation at Rs.3,03,980/- passed by the Tribunal, by reducing the rate of interest, as indicated above, and confirming the same in all other respects. There shall be no order as to costs.

16. As a sequel thereto, miscellaneous applications, if any pending in the instant appeal, stand closed.

A. SHANKAR NARAYANA, J

10th December, 2015

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[\[1\]](#) 1987 ACJ 1052

[\[2\]](#) (2009) 6 SCC 121

[\[3\]](#) 2013 ACJ 1403