THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

M.A.C.M.A.No.2025 of 2005

JUDGMENT:

The petitioners in O.P.No.157 of 2000 on the file of the Court of Motor Accident Claims Tribunal-cum-II Additional District Judge, Madanapalle (for short, Tribunal) are the appellants herein.

2. The petitioners filed the said OP claiming compensation of Rs.3,00,000/- for the death of one Lavanya in a road accident that occurred on 06.07.2000. It was stated in the said OP that on 06.07.2000 at 06.15 am, when said Lavanya was going on the right side of Vayalpad-Gurramkonda road to throw garbage and cow-dung from the basket into the manure pit, a bus bearing No.AP02 5202 came in a rash and negligent manner and hit her from behind on the right side of the road and ran over her head, as a result of which, she died instantaneously. The first petitioner is the father and petitioners 2 and 3 are the brothers of the deceased. The deceased was unmarried. A counter affidavit was filed in the said OP by the respondents stating that the deceased suddenly crossed the road, and in spite of best efforts made by the driver of the bus, the accident occurred.

3. The Tribunal framed the following issues.

> "1. Whether the accident occurred due to the rash and negligent driving of the offending vehicle APSRTC bus bearing No.AP 92 5202 involved in the accident and whether it resulted in death of the deceased?
>
> 2. Whether the petition is bad for non-joinder of necessary parties?
>
> 3. Whether the petitioners are entitled for compensation and if so payable by whom and to what extent?
>
> 4. To what relief?"

4. On behalf of the petitioners, P.Ws.1 to 3 were examined and

Exs.A.1 to A.9 and X1 were marked. On behalf of the respondents, the driver of the bus was examined as R.W.1, but no documents were marked.

5. The Tribunal took up the second issue and held that as there was no pleading in the written statement, that issue does not arise for consideration. With regard to the first issue, on the basis of the pleadings, the Tribunal held that the accident occurred due to rash and negligent driving of the driver of the RTC bus. With regard to compensation, the Tribunal noticed that the age of the deceased was 24 years as per Exs.A.2, A.3 and A.5, she was unmarried, she used to supply milk to the milk center and was earning Rs.2,500/- per month. P.W.3 was examined in support of the said fact. He stated that he used to pay Rs.750/- for milk supplied by the family for fortnight. The Tribunal came to the conclusion that the monthly income of the family was Rs.350/- by supply of milk to the milk centre. The family owned 10 acres of land in Ramapuram, Amelepalle and Rachapalle villages. The Tribunal came to the conclusion that under the Hindu Succession Act, 1956, the deceased is entitled for Ac.2-50 cents. The Tribunal also observed that since the deceased was aged about 24 years, she may not stay in the house of her parents and serve them, as she may go out of the house after marriage and thus, she may not contribute any money to the family after her marriage. The Tribunal took the age of the father of the deceased as 65 years, applying the multiplier of 5, and taking the annual income as Rs.10,000/-, awarded an amount of Rs.50,000/-. The Tribunal also awarded an amount of Rs.10,000/- towards loss of love and affection, Rs.13,000/- towards loss of estate and Rs.2,000/- towards funeral expenses, in all, an amount of Rs.75,000/-, by award dated 05.10.2004. Seeking enhancement of the said compensation, the present appeal is filed.

6. Admittedly, the deceased was aged about 24 years and there is no proof of her education. The plea set up by the father of the deceased

was that the deceased was earning income of Rs.2,000/- to Rs.2,500/- per month by supplying milk to the milk centre. Probably the said milk belongs to the family and it cannot be said that the entire income belongs to the deceased. Petitioners 2 and 3 cannot be said to be dependants on the earnings of the deceased. The Tribunal took the annual income as Rs.10,000/-. Taking the said income and applying the multiplier of 18 to her age of 24 years, the annual contribution would come to Rs.1,80,000/- and since the deceased was unmarried, 50% of the same should be deducted for the personal expenses. If the same is done, the amount would come to Rs.90,000/-. The amount of funeral expenses of Rs.2,000/- is enhanced to Rs.10,000/-. The Tribunal awarded an amount of Rs.10,000/- towards loss of love and affection and it does not need any enhancement. However, the amount of loss of estate of Rs.13,000/- is enhanced to Rs.50,000/-. Thus, the award of Rs.75,000/- awarded by the Tribunal is enhanced to Rs.1,60,000/-. The enhanced amount of compensation shall carry the same rate of interest @ 9% per annum.

7. Accordingly, the appeal is partly allowed. Miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

Date: 17.12.2015
TJMR