

HON'BLE SRI JUSTICE S.V. BHATT

M.A.C.M.A. No. 1573 OF 2005

Date: 04-11-2015

Between:

APSRTC., rep., by its Managing Director,
Hyderabad.

... Appellant

And

C. Sumithra Rani & others.

... Respondents

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HON'BLE SRI JUSTICE S.V. BHATT

M.A.C.M.A. No. 1573 OF 2005

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JUDGMENT:

Respondent in M.V.O.P.No.168 of 2001 in the Court of the District Judge-cum-

Chairman, MACT, Chittoor, is the appellant. The respondent through this appeal challenges the quantum of compensation awarded by the learned District Judge through M.V.O.P.No.168 of 2001, dated 31.03.2004.

Heard Sri A. Rama Rao, learned counsel for the appellant, and Sri M.A.K.Mukheed for respondents.

Respondent Nos.1 to 5 herein filed the instant O.P. claiming compensation of Rs.10,00,000/- with interest at 12% per annum from the date of accident till deposit. The petition for compensation was filed under Section 166 of the Motor Vehicles Act, 1988. On 19.06.1999, at about 1.00 p.m. one Chandrasekhara Reddy, husband of 1st respondent, father of respondent Nos.2 to 4 and son of respondent No.5, was going by Scooter bearing No.ATC-3965 from Padigala Kuppam to Ramanapalle. When the deceased reached Kaigal village, a bus bearing No.AP-9Z-9889 hit the Scooter on which the deceased and one Venkata Reddy were traveling. It is alleged the accident was a head on collision with Scooter due to the rash and negligent driving of bus driver. The persons traveling on the Scooter suffered grievous and multiple injuries and at the first instance were taken to Primary Health Centre, V.Kota, and were advised to shift to a hospital with better facilities and when the injured were shifted from Primary Health Centre to nearby Government hospital, it is alleged Chandrashekara Reddy died of grievous and multiple injuries. Respondent Nos.1 to 5 state that the deceased was aged 30 years, was a Member of the Private Medical Practitioners Association of India (Registered), A.P. Branch, and the Indian First Aid Association, Vijayawada, running a medical shop in the name and style as Sumithra Medicals, V. Kota, owns agricultural land and was doing seasonal business. The details of income of deceased as set out in the petition are that the deceased was earning Rs.6,000/- per month from Sumithra Medicals, a sum of Rs.50,000/- per annum from seasonal business and agricultural income of Rs.1,00,000/-.

The appellant denied the age of the deceased as 30 years, his registration with Private Medical Practitioners Association and Indian First Aid Association, running a medical shop etc. The loss to estate was contended before the Tribunal.

The Tribunal framed these issues:

“(1) Whether the accident occurred due to the rash and negligent driving of the respondent’s bus by its driver or the rash and negligent driving of the Scooter by the deceased or both?

(2) Whether the petitioners are entitled to compensation for the death of Chandrashekara Reddy and if so, to what quantum?

(3) To what relief?”

The Tribunal through the award under challenge under various heads granted compensation of Rs.4,40,000/-.

Sri Rama Rao, learned counsel for the appellant, contends that the award of Rs.4,40,000/- by the Tribunal is not just and commensurate to the earning capacity of the deceased and prays for modifying the impugned award.

On the other hand, Sri Mukheed contends that the award of compensation is fair and just and according to him, if the principles laid down in **SARLA VERMA & OTHERS V. DELHI TRANSPORT CORPORATION AND ANOTHER** are taken into consideration the respondents are entitled to more compensation and the Tribunal granted moderate compensation. According to him, the 1st respondent is entitled to Rs.1,00,000/- towards loss of consortium and that if notional enhancement of 30% to the income accepted by the Tribunal is granted, the respondents are entitled to more compensation than what is granted by the Tribunal.

Now the point for consideration is:

Whether the award granting compensation of Rs.4,40,000/- is just and proper in the facts and circumstances of the case or warrants interference by this Court?

The appellant questions the quantum of compensation awarded by the Tribunal. The case of respondent Nos.1 to 5 is that the deceased was aged 30 years at the time of death. The deceased was a registered medical practitioner as stated above and at the village he was running a medical store and was supervising the agriculture in an extent of Ac.13.72 cents doing seasonal business etc. In the case on hand, the Tribunal, as against the assertion of deceased income at Rs.2,22,000/- per annum, by considering each one of the heads under which the compensation was claimed and the proof adduced, determined that the

income of deceased at Rs.36,000/- per annum and deducted 1/3rd therefrom towards personal expenses and applied 17 multiplier and arrived at the compensation payable towards pecuniary loss at Rs.4,08,000/-, Rs.15,000/- towards loss of consortium and Rs.10,000/- towards funeral expenses. As pointed out by learned counsel for respondent, if 30% is added to the future loss of income, and the consortium is determined at Rs.1,00,000/- certainly the claimants are entitled to more compensation.

The claim of respondent Nos.1 to 5 is that the deceased was a registered medical practitioner, owns agricultural land and was running a medical store. Each one of these circumstances is evidenced by Exs.A1 to A9. I have perused these exhibits to examine whether the quantum of compensation granted by the Tribunal is just and proper. In my considered view and having regard to the fact that the deceased was aged about 30 years, owns agricultural land and placed evidence of practicing as a Health Assistant or registered medical practitioner, it is probable to think that the demise of Chandrashekara Reddy certainly has resulted in pecuniary loss to respondent Nos.1 to 5. Further, the amount granted towards loss of consortium and funeral expenses and failure to grant 30% increment on the income arrived at by the Tribunal are other circumstances which I am not inclined to consider in the appeal filed by the respondents.

I see no reason to interfere with the well-considered award, dated 31.03.2004. No merit in the appeal and accordingly dismissed.

S.V. BHATT, J

Date: 04.11.2015

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