

THE HON'BLE MRS JUSTICE ANIS

M.A.C.M.A.NO.1454 OF 2005

JUDGMENT:

This appeal is filed by the appellants/respondents under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), aggrieved by the judgment and decree dated 17.07.2003, passed by the Chairman, Motor Accident Claims Tribunal-cum-Additional District Judge, Nizamabad, in O.P.No.83 of 2001, awarding compensation of Rs.3,02,000/-.

2. The respondents/petitioners filed the above Original Petition under Section 166 of the Act claiming compensation of Rs.5,00,000/- on account of the death of Smt. Mamidi Savithri @ Gangamani (deceased) in a motor vehicle accident that occurred on 25.08.2000.

3. For the sake of convenience, the parties hereinafter will be referred to as they were arrayed in the Original Petition.

4. The brief averments made in the petition are that on 25.08.2000, the deceased was travelling in auto bearing No.ABT 2138 from Gundaram towards Nizamabad and at about 2.30 pm when the auto reached Gundaram crossing on Nizamabad to Jannepally road, RTC Bus bearing No.AP-9-Z-8789 came at high speed in rash and negligent manner dashed against the deceased, due to which she sustained grievous injuries and died on the spot. It is further stated that the deceased was hale and healthy prior to the accident and aged 35 years by the date of the accident. She was working as an agriculturist, vending vegetables and was earning Rs.10,000/- per month. The accident occurred due to rash and negligent driving of the driver of the RTC Bus bearing No.AP-9-Z-8789 and hence, claimed compensation of Rs.5,00,000/- against the respondents.

5. The brief averments made in the written statement filed by the respondents are as follows:

The first respondent put the petitioners to prove the manner of accident, the age of the deceased and income and specifically pleaded

that the compensation claimed by the petitioners is high and excessive, and prayed the Court to dismiss the petition.

6. Basing on the above pleadings, the Tribunal framed three issues and to substantiate their claim, the petitioners got examined PWs.1 to 3 and got marked Exs.A.1 to A.4 on their behalf. On behalf of the contesting respondent, no oral or documentary evidence was adduced.

7. After considering the oral and documentary evidence, the Tribunal held that the accident occurred due to rash and negligent driving of the driver of the RTC Bus bearing No.AP-9-Z-8789, due to which the deceased sustained grievous injuries and died on the spot and awarded compensation of Rs.3,02,000/- along with interest at 9% p.a. to the petitioners against both the respondents.

8. Being aggrieved by the award passed by the Tribunal, the respondents preferred the present appeal.

9. The learned counsel appearing for the appellants/petitioners argued that the Tribunal has not considered the evidence in a perspective manner as to whether the deceased suffered grievous injuries and died on the spot; that the Tribunal also has not considered the evidence of PWs.1 to 3 regarding the daily income of the deceased, but has taken notional income; that the Tribunal has granted excess amount under different heads; and prayed the Court to reduce the compensation by allowing the appeal.

10. On the other hand, the learned counsel for the claimants-respondents argued that after considering the oral and documentary evidence, the Tribunal granted just and reasonable compensation to the claimant and the said finding of the Tribunal needs no interference and prayed the Court to dismiss the appeal.

11. Having regard to the submissions made by the learned counsel appearing for both the parties, the points which are to be decided in this appeal are as follows:

1. Whether the compensation awarded by the Tribunal is just and reasonable?
2. Whether the appellants/petitioners are entitled for reduction of compensation as prayed for?

12. **POINTS:** A perusal of the record coupled with the evidence of P.Ws.1 to 3 and Exs.A1 to A3 shows that with regard to the accident, there is no dispute of the fact that on 25.08.2000, due to the rash and negligent driving of the driver of the RTC Bus bearing No.AP-9-Z-8789, accident occurred in which the deceased sustained grievous injuries and died on the spot. Therefore, the said finding of the Tribunal needs no interference.

13. As far as the quantum of compensation awarded by the Tribunal is concerned, PW.1 in his evidence categorically stated that the deceased was earning Rs.10,000/- per month and she was aged about 35 years at the time of the accident. Considering the evidence of P.Ws.1 to 3, the Tribunal has taken the income of the deceased as Rs.2,000/- per month and Rs.24,000/- per annum and after deducting 1/3rd towards personal expenses, calculated as Rs.16,000/- per annum and by applying multiplier '17', awarded compensation at Rs.2,72,000/-. The Tribunal also awarded compensation of Rs.15,000/- towards loss of marital happiness, Rs.10,000/- towards loss of love and affection and Rs.5,000/- towards funeral expenses. Thus, a total sum of Rs.3,02,000/- was awarded to the petitioners. Insofar as quantum of compensation is concerned, there is no contra evidence produced disputing the evidence of P.Ws.1 to 3 about the income and other factors. The Tribunal, after considering the evidence of P.W.3, rightly awarded an amount of Rs.3,02,000/-, which is just and reasonable compensation on account of death of Smt. Mamidi Savithri @ Gangamani and that finding needs no interference and the petitioners are entitled for the said amount.

14. As far as the rate of interest is concerned, in view of different rate of interests granted by the Hon'ble Supreme Court in the decisions reported in ***Sanobanu Nazirbhai Mirza and others v. Ahmedabad Municipal***

Transport Service^[1] and ***Rebeka Minz and others v. Divisional Manager, United India Limited Insurance Company Limited and***

another^[2], I am of the view that interest at 7.5% per annum shall be awarded on the compensation amount from the date of appeal till the date of realization.

15. In view of the above discussion, the appeal is partly allowed by reducing rate of interest from 9% to 7.5% per annum from the date of appeal till the date of realization. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(ANIS, J)

21st September 2015
RRB

^[1] 2013 ACJ 2733

^[2] 2012 ACJ 2328