

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.CMA.No.317 OF 2009

JUDGMENT:

The Road Transport Corporation of erstwhile Andhra Pradesh State, which is arrayed as respondent Nos.1 and 2 in O.P.No.179 of 2006 on the file of Chairman, Motor Accidents Claims Tribunal – cum – Chief Judge, City Civil Court, Hyderabad, preferred the instant appeal aggrieved by the order and decree, dated 17.03.2008, passed in the said O.P., whereby and whereunder, the Tribunal has granted a sum of Rs.6,10,000/- towards compensation with interest at 6% per annum to the legal representatives of deceased A. Darshan, who was 50 years old and working as Helper in the very same Corporation at Miyapur, Hyderabad, on the date of accident, as against the claim of Rs.10,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act').

2. The appellants are respondent Nos.1 and 2, whereas the respondents are petitioners in the O.P. before the Tribunal.

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

4. The facts in brief are that on 04.11.2005 at about 07:30 PM, while one A. Darshan was walking on foot near Vivekananda Statue at National Highway No.7, Medchal, driver of the R.T.C. bus bearing registration No.AP-11-Z-3551 having driven it at high speed in a rash and negligent manner, dashed the said A. Darshan, due to which, he sustained grievous injuries. Immediately, he was shifted to Meher Hospital, Medchal, where first aid was given to him and thereafter, he was shifted to Gandhi Hospital, Secunderabad. On 05.11.2005 at about 04:00 PM, while he was undergoing treatment at Gandhi Hospital, Secunderabad, he succumbed to the injuries. The petitioners, being the wife, daughter and mother of the deceased, stating that the deceased was 50 years old earning Rs.12,000/- per month, working as Helper in R.T.C. depot, sought a sum of Rs.10,00,000/- as compensation.

5. Common counter was filed by both the respondents opposing the claim. It is stated in the counter that the driver of R.T.C. bus slowed down the bus on seeing the deceased, but the deceased himself got confused and fell down on the road and sustained injuries. That has been the defence projected by the respondents.

6. Based on the said pleadings put forth by the rival parties, in the direction of accounting for responsibility about the accident, the Tribunal has framed three issues.

7. During enquiry, petitioner No.1 examined herself as PW.1 besides examining PWs.2 and 3 and marked Exs.A1 to A6 besides marking Exs.X1 and X2, which are the authorisation letter and salary pay slip of the deceased at the relevant time, respectively, through PW.3 to substantiate the claim laid. On behalf of the respondents, no evidence, either oral or documentary, was let in.

8. The Tribunal, having analysed the evidence on record, recorded a finding in favour of the petitioners on issue No.1. As regards determination of compensation, the Tribunal, taking the age of the deceased as 50 years and carry home salary as Rs.6,042/- per month, by adding Rs.672/-, which amount was deducted towards bank loan, assessed the net salary of the deceased as Rs.6,714/- per month, which works out to Rs.80,568/- per annum, and by deducting $\frac{1}{3}$ rd therefrom, arrived at Rs.53,712/- as annual contribution to the family, and by applying multiplier '11', worked out the loss of dependency at Rs.5,90,832/-, but rounded off the same to Rs.5,90,000/-.

This apart, the Tribunal has also granted Rs.15,000/- towards loss of estate, Rs.2,000/- towards funeral expenses and Rs.3,000/- towards loss of consortium, thus, making a total of Rs.6,10,000/- with interest at 6% per annum.

9. The appellant - Corporation, still, aggrieved over the same, preferred the present appeal stating that the deceased himself was responsible for taking place of the accident, as he met with the accident when he attempted to cross the road. The other ground is that the Tribunal went wrong in assessing the income of the deceased as Rs.6,714/- per month. Even concerning multiplier, the appellants state that the relevant multiplier is '7.68', in view of the decision of this Court in **Bhagwan Das v. Mohd. Arif**^[1] and the Tribunal went wrong in applying multiplier '11'.

10. Heard Sri N. Vasudeva Reddy, learned Standing Counsel for the appellants. No representation for respondent Nos.1 to 3, when the matter is called.

11. Learned counsel for the appellants would state that no notice was received by the appellants in any appeal preferred by the respondents – claimants aggrieved by the impugned order.

12. It appears that no cross objections are filed.

13. At the outset, it is to be held that there is absolutely no merit in the present appeal. In fact, the Tribunal ought to have applied multiplier '13', but not '11', as mentioned in Second Schedule to Section 163A of the Act. This apart, in view of recent pronouncements of the Honourable Supreme Court, it is not the carry home salary that has to be taken for the purpose of determining the loss of dependency, but it is the gross salary with statutory deductions that has to be taken for determining the loss of dependency. Further, even towards future prospects, for a person aged 50 years, 15% addition to be made. When viewed in that angle, certainly, the petitioners would become entitled to more than what the Tribunal had awarded to them. Therefore, the present appeal deserves to be dismissed.

14. Hence, the appeal is dismissed while confirming the order and decree under challenge in all respects.

15. Miscellaneous Petitions, if any, pending in this appeal, shall stand closed. There shall be no order as to costs.

A. SHANKAR

NARAYANA, J

July 21, 2016.
MD

[\[1\]](#) 1987 (2) ALT 137