

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

MACMA.No.2354 of 2009

JUDGMENT:

Having got dissatisfied with the amount of Rs.14,563/- granted as compensation by the award and decree, dated 29.04.2008, in M.V.O.P.No.158 of 2006 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-VI Additional District Judge (III Fast Track Court), Warangal at Mahabubabad (for short, 'the Tribunal'), as against the claim of Rs.1,50,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'), the present appeal is preferred by the appellants-petitioners seeking enhancement of compensation.

The appellants herein are the petitioners, amongst whom petitioners 2 to 6 are the legal representatives and heirs of the 1st petitioner, whose death occurred on 01.06.2007, due to the injuries sustained by him in a road accident that took place on 10.07.2005, while the respondent herein, the erstwhile Andhra Pradesh State Road Transport Corporation represented by its Managing Director, Musheerabad, Hyderabad, is the respondent in the original petition.

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

Since the fact-situation is not in dispute, there is no need to advert to the details thereof.

Heard Sri Ramidi Satyanarayana, learned counsel for the appellants-petitioners. None appears for the respondent, though, service was completed on it.

Learned counsel for the appellants would submit that the death of the 1st petitioner took place on account of the accident that occurred just less than two years prior to his death. It is according to him that the case sheet ought to have contained the cause of death of the petitioner, though, he was treated for some time in MGM Hospital, Warangal, where he had undergone surgical interventions even. It is according to him that the Tribunal ought to have computed loss of earnings or the loss of dependency as claimed by the petitioners, but went wrong in not doing so and also it did not award any amount towards pain and suffering and other incidental charges, except awarding a meagre compensation of Rs.15,000/-, by ignoring the nature of the injuries sustained by the deceased 1st petitioner.

The deceased 1st petitioner was admitted in Hospital on 10.07.2005, as APSRTC bus bearing registration No.AP 9Z 9548, driven in a rash and negligent manner by its driver, hit him while he was crossing the road at Bhotiya Thanda at about 6.00 p.m on the said

date and has sustained fracture of left femur upper 1/3rd and fracture of both bones of right forearm and other injuries also to his person.

The record would reflect that the deceased was admitted in M.G.M. Hospital, Warangal, on 11.07.2005 and discharged on 12.08.2005, after he had undergone surgery. But there is no indication whether he was again treated in the Hospital during different spells, except an observation that he has undergone a surgery on 19.11.2005 having been admitted in the same Hospital again on 17.10.2005 and discharged on 29.11.2005. Further, there is no indication or material on record to show that the deceased 1st petitioner was under continuous treatment till his death took place on 01.06.2007. So, certainly, the accident cannot be construed as proximate cause for his death in the absence of material on record to prove the same. Therefore, that submission of the learned counsel for the appellants – petitioners does not merit.

The petitioners sought Rs.15,000/- towards medical expenditure and extra-nourishment. The Tribunal has noted Exs.A7 to A27- medical bills, admitted by PW.2, the doctor who treated the deceased 1st petitioner, and taking into consideration of the said assertion of P.W.2 and also the injuries, observed that the petitioners would have spent Rs.6,563/- and, accordingly, awarded the said amount. The Tribunal has also granted Rs.6,000/- towards loss of earnings and

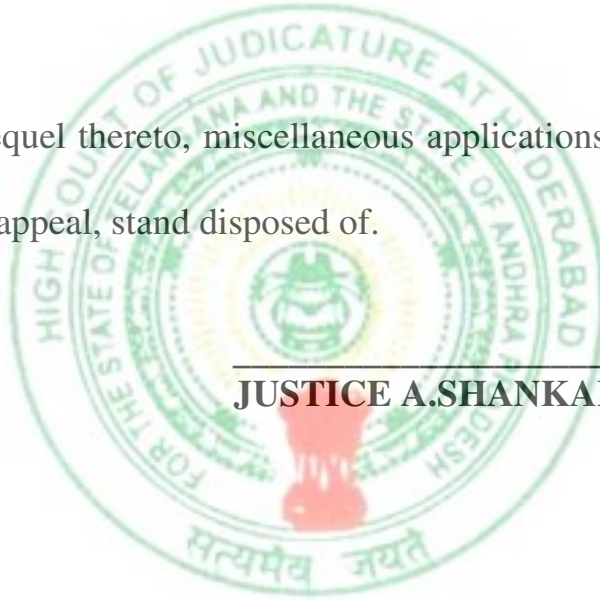
Rs.2,000/- towards transport charges, thus, arrived at Rs.14,563/- and rounded it off to Rs.15,000/- with interest at 7.5% per annum.

It has to be said that there is no other material to show the entitlement of the legal heirs of the deceased 1st petitioner to any further amounts, as the death of the 1st petitioner did occur during the pendency of the claim petition itself. In that view of the matter, there is no merit in the present appeal.

Accordingly, the appeal is dismissed. There shall be no order as to costs.

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

02.12.2016
v v



JUSTICE A.SHANKAR NARAYANA