

THE HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

M.A.C.M.A. No.1400 of 2009

JUDGMENT:

Aggrieved by the Award dated 03.08.2006 in O.P.No.116 of 2005 passed by the Chairman, M.A.C.T-cum-V Additional District Judge (Fast Track Court), Ananthapur (for short 'the Tribunal'), the respondent-APSRTC preferred the instant MACMA.

2) The factual matrix of the case is thus:

a) On 10.09.2004, the deceased—V.Sreenivasa Chari who is a carpenter and proprietor of Firm—Sai Wood Works, along with his friend—B.Ramanayudu returning on motorcycle bearing No.AP 02 K 2053 from Puttaparthi to Dharmavaram at about 10.15 PM and when they reached near C.C.Kothakota village, RTC bus bearing No.AP 11 Z 498 being driven by its driver in a rash and negligent manner and at high speed, dashed the motorcycle in opposite direction. Thereby, the deceased fell down and received multiple fracture injuries all over the body. Immediately he was shifted to Government General Hospital, Dharmavaram and while undergoing treatment he died. It is averred that accident was occurred due to rash and negligent driving by the driver of the APSRTC bus. On these pleas, the claimants filed O.P.No.116 of 2005 under Section 166 of Motor Vehicles Act, 1988 (for short "the Act") against respondent—APSRTC and claimed Rs.5,00,000/- as

compensation.

b) The respondent/APSRTC filed counter denying all the material averments and urged to put the claimants in strict proof of the same. Respondent further contended that petition is not maintainable for non-joinder of necessary parties i.e. owner and insurer of motorcycle and also driver of APSRTC. It is further contended that accident was occurred due to the fault of deceased himself. Finally, it is contended that claim is highly excessive and exorbitant and prayed to dismiss the OP.

c) During trial, PWs.1 and 2 were examined and Exs.A1 to A7 were marked on behalf of claimants. RW1 was examined and no documents were marked on behalf of respondent.

d) The lower Tribunal on appreciation of both oral and documentary evidence awarded total compensation of Rs.4,00,000/- with costs and interest @ 7.5% p.a. against respondent/APSRTC.

Hence, the appeal by APSRTC.

3) The parties in the appeal are referred as they were stood before the lower Tribunal.

4) Heard arguments of Sri Aravala Rama Rao, learned Standing Counsel for appellant/APSRTC and Sri Kuncheam Maheswara Rao, learned counsel for respondents/claimants.

5a) Challenging the award learned counsel for appellant firstly contended that Tribunal grossly erred in accepting the

monthly income of the deceased at Rs.3,000/- though the claimants failed to produce any reliable evidence regarding his profession and income. Learned counsel submitted that Ex.A5 is a self-severing document and at any rate that certificate is not sufficient to fix income of the deceased.

b) Learned counsel further argued that Tribunal erred in selecting '16' as multiplier and the correct multiplier for the age group of the deceased would be '15'. Learned counsel also argued that interest awarded is on high side. On these submissions he prayed to allow the appeal and decrease the compensation suitably.

6) On the other hand, learned counsel for respondents/claimants supported award and prayed to dismiss the appeal.

7) In the light of above rival arguments, the point for determination in this appeal is:

“Whether compensation awarded by the Tribunal is just and reasonable or needs interference?”

8 a) **POINT:** Accident, involvement of motorcycle bearing No.AP 02 K 2053 and RTC bus bearing No.AP 11 Z 498 and death of deceased are not in dispute. The bone of contention is quantum of compensation. The first contention of appellant is that Tribunal erred in fixing notional income of the deceased as Rs.3,000/-. On perusal of the judgment, I find no force in the said contention. The deceased was working as carpenter and

he was so referred in Ex.A3—inquest report. Further, Ex.A5—Provisional Registration issued by the Department of Industries shows that deceased got registered his Sai Wood Works carpentry shop as an industry. Therefore, it is quite evident that deceased was a skilled carpenter and was running Sai Wood Works shop at Dharmavaram in Ananthapur District. In that view of the matter, lower Tribunal was justified in fixing his notional income as Rs.3,000/- per month and I find no irregularity in it.

b) The second contention is about the fixing of multiplier. Ex.A6—Transfer Certificate of the deceased issued by Government Junior College, Old Town, Ananthapur shows his date of birth as 12.04.1968 and he died in the accident on 10.09.2004. So, he was aged about 36 years. Having regard to his age, the lower Tribunal took '16' as multiplier. The argument is that as per the decision of the Apex Court reported in ***Smt. Sarla Verma and others v. Delhi Transport Corporation and another***^[1] the correct multiplier for the persons in the age group of 36 to 40 is '15'. It is true as per the said decision the multiplier is '15'. However, considering the fact that number of dependents of the deceased were five and the Tribunal deducted 1/3rd instead of 1/4th from his gross earnings and thereby compensation was already drastically reduced and there was no appeal from the claimants' side, I am of the considered view that the multiplier need not be reduced from 16 to 15 to the disadvantage of the claimants.

c) Sofaras rate of interest is concerned, the Tribunal rightly awarded at the rate of 7.5.% and I see no exorbitance in it.

9) So, at the outset, no merits in the appeal and accordingly the MACMA is dismissed confirming the award passed by the Tribunal in O.P.No.116 of 2005. No costs in the appeal.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 23.02.2016

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[\[1\]](#) 2009 ACJ 1298