

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

MACMA No.233 OF 2009

JUDGMENT:

The appellants herein are the Depot Manager and the Managing Director of the erstwhile Andhra Pradesh State Road Transport Corporation (for short, 'the Corporation'), who are shown as respondent Nos.1 and 2, respectively, in O.P.No.1855 of 2001 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, Nizamabad (for short, 'the Tribunal'). The claim relates to the death of one A.K.Pradhan, whose legal representatives are the petitioners numbering four in the said O.P.

2. The Tribunal, by its order dated 26.09.2006 in the said O.P, granted a sum of Rs.5,83,000/- with interest at 7.5% per annum thereon as compensation, as against the claim of Rs.8,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988.

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

4. The fact-situation would reveal that on 12.09.2001, while one A.K.Pradhan, who is the deceased, along with one Megavath Sarichand was proceeding to Pitlam from Banswada on a Hero Honda motor cycle,

driven by the deceased, and when they reached Siddapoor village shivar, near a nursery, at 9.00 a.m., an APSRTC bus bearing registration No. AP 9Z 6810, coming in opposite direction, driven in a rash and negligent manner at high speed, attempted to overtake yet another RTC bus and, thereby, dashed the motor cycle on which the deceased and another were proceeding. As a result, they fell down and, while the deceased was being shifted to hospital, he succumbed to injuries.

5. Concerned police registered a crime against the driver of the offending bus.

6. The petitioners, being wife, children and father of the deceased, stating that the deceased used to earn Rs.6,000/- per month on his profession of motor winding business and, on account of his death, they lost their bread earner, sought a sum of Rs.8,00,000/- as compensation.

7. Respondent Nos.1 and 2 opposed the claim by filing a counter, raising number of grounds in an attempt to attribute rash and negligent driving to the deceased himself.

8. Basing on the said pleadings, the Tribunal has framed three issues in order to determine the liability as well as the compensation to which the petitioners are

entitled.

9. During enquiry, petitioner No.1 examined herself as P.W.1, besides examining the pillion rider - Megavath Sarichand as P.W.2, and marked Exs.A1 to A10 to substantiate their claim. On behalf of the Corporation, no witnesses were examined and no documents were marked.

10. The Tribunal, on assessment of evidence on record, held that due to rash and negligent driving of the driver of RTC bus bearing registration No. AP 9Z 6810, the accident had occurred and, accordingly, recorded a finding in favour of the petitioners.

11. On issue No.2, the Tribunal has not agreed with the stand of the petitioners that the deceased was earning Rs.6,000/- per month. On the other hand, considering the fact that the deceased, being a skilled labourer and technical submersible motor mechanic, can earn Rs.150/- per day, arrived at Rs.4,500/- as earnings per month. The Tribunal has deducted $\frac{1}{3}$ rd there from and taken the remainder towards contribution to the family. Taking the age of the deceased as 33 years based on entries in Ex.A5-post mortem examination report, applied multiplier "16" and arrived at Rs.5,76,000/- towards loss of dependency. Besides the said amount, the Tribunal has granted Rs.2,000/- towards funeral

expenses and Rs.5,000/- towards consortium and, thus, awarded a total compensation of Rs.5,83,000/- with interest at 7.5% per annum.

12. The aforesaid order is under challenge in the instant appeal mainly on the ground that the amount granted by the Tribunal is excessive and, without there being any income proof to show that the deceased was earning Rs.4,500/- per month, the Tribunal has arrived at the said earnings, which is in deviation of appreciation of evidence. It is also stated in the grounds that the Tribunal ought to have applied the multiplier factor “15”, but not “16”, in view of the decision of this Court in **Bhagwandas v. Mohd. Arif**^[1].

13. Heard Sri N.Vasudeva Reddy, learned Standing Counsel for the appellants, and Sri T.Sujan Kumar, learned counsel for respondent Nos.1 to 4.

14. Perused the order and evidence on record.

15. Though, the learned counsel for the appellants contended that there was no material to show that the deceased was a motor mechanic, a perusal of Ex.A3, the inquest report, against column No.2 would show that the deceased was submersible motor mechanic. Thus, Ex.A3 would prove that the deceased was a motor mechanic at the relevant time. Therefore, the finding recorded by the Tribunal in regard to the earnings

of the deceased at Rs.150/- per day or Rs.4,500/- per month, cannot be upset. The Tribunal has deducted 1/3rd towards personal expenses. In fact, 1/4th of the earnings has to be deducted since the petitioners are numbering four, in view of the decision of the Hon'ble Supreme Court in **Sarla Verma & others v. Delhi Transport Corporation and another**^[2]. Besides the same, the future prospects have not been granted by the Tribunal. Even the amount of Rs.2,000/- towards funeral expenses and Rs.5,000/- towards loss of consortium granted by the Tribunal are, by any standard, on lower side. Thus, when viewed in the above context, the amount of Rs.5,83,000/- granted by the Tribunal cannot be construed or viewed as excessive or arbitrary. Thus, there is no merit in the instant appeal.

16. Accordingly, the instant appeal is dismissed, confirming the order and decree passed by the Tribunal. There shall be no order as to costs.

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

A. SHANKAR NARAYANA, J

18th July, 2016
v v

^[1] 1987 (2) ALT 137

[\[2\]](#) (2009) 6 Supreme Court Cases 121