

HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A.No.241 of 2010

JUDGMENT:

The respondents/ Andhra Pradesh State Road Transport Corporation (for short 'APSRTC'), aggrieved by the award of the tribunal dated 02.01.2009 in O.P.No.518 of 2007 maintained the claim under Section 166 of the Motor Vehicles Act by the claimants/ wife and two minor children of the deceased-Bagaiah, aged about 45 years as per Post mortem report-Ex.A3, for a compensation of Rs.6,00,000/-, for the accident dated 10.05.2007, from what the tribunal awarded having held that the accident was the result of rash and negligent driving of the driver of the bus of the appellants, since awarded Rs.3,83,000/- with interest at 7.5% p.a., by impugning the same maintained the appeal.

2. Learned counsel for the appellants/ APSRTC reiterated the contentions in the grounds of appeal vis-à-vis oral submissions that the tribunal gravely erred in holding that the bus involved in the accident and APSRTC is liable for compensation though the accident was the result of own negligence of the deceased by peddling his cycle and hence to exonerate the respondent from liability apart from compensation awarded is also excessive and exorbitant to reduce.

3. Whereas, it is the submission of the learned counsel for the claimants/ respondents that the award of the tribunal holds good and for this Court while sitting in appeal there is nothing to interfere but for no cross objections to enhance.

4. Heard and perused the material on record.

5. The deceased was peddling cycle at the time of accident at the limits of Khaleel-Raheem land, near Sanga Reddy and he died on the spot from the involvement of the bus. Once these facts are proved, it is a crystal clear of the accident was the result of rash and negligent driving of the driver of the bus of the appellant, as rightly concluded by the tribunal and with that finding there is nothing to interfere.

6. Now coming to the quantum of compensation even, from the earnings of the deceased to be estimated at Rs.3,600/- p.m. as per *Lata Wadhwa v. State of Bihar*¹, and as the accident was in 2007 after six years of the expression. If 1/3rd is deducted towards personal expenses of the deceased, it comes to Rs.2,400/- p.m. and Rs.28,800/- p.a. and the same is multiplied with the multiplier '13.5' (applicable from the age of the deceased) it comes to Rs.3,88,800/-, besides the other conventional sums, what the tribunal awarded of Rs.3,83,000/- no way requires interference.

7. Accordingly and in the result, the appeal is dismissed. There is no order as to costs.

8. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

Date:21.10.2016

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¹ AIR 2001 (SC) 3218