

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1607 OF 2005

JUDGMENT:

The Andhra Pradesh State Road Transport Corporation, represented by its Managing Director, Musheerabad, Hyderabad, feeling aggrieved by the order dated 27.01.2004 in O.P. No.29 of 2003 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge, Madanapalle, Chittoor District (for short, 'the Tribunal'), whereby and whereunder, a sum of Rs.2,42,000/- was granted as against Rs.2,50,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') for the death of one Malee Yerraiah in a road accident, preferred the instant appeal under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act') on the ground that the compensation granted by the Tribunal is excessive and sought to set aside the award and decree.

2. The appellant herein is the respondent, while respondent Nos.1 to 4 herein, who are the claimants, are petitioner Nos.1 to 4, respectively, in the original petition.

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

4. The facts in brief are that on 24.08.1995 at

about 8-30 p.m., the said Malee Yerraiah was waiting for a bus at the bus stop near Prasad Nagar Colony, during which time, an APSRTC bus bearing registration No.AEZ 5793 driven in a rash and negligent manner at high speed came and dashed him, due to which, he died instantaneously. Petitioners, being the wife, children and parents of the deceased, claiming that the deceased was 25 years old and they lost the earning member of their family, sought a sum of Rs.2,50,000/- as compensation from the respondent-Corporation.

5. Respondent-Corporation opposed the claim by filing counter raising various pleas.

6. Basing on the said pleadings, the Tribunal framed the following issues about the responsibility for the accident:

"1. Whether the accident occurred due to rash and negligent driving of the offending vehicle APSRTC bus bearing registration No.AEZ 5763 involved in the accident and whether it resulted in death of the deceased?

2. Whether the respondent is liable to pay the compensation?

3. To what relief?"

7. During enquiry, petitioner No.1 examined herself as P.W.1 besides examining B.Nagamalaiah, an

eyewitness to the occurrence, as P.W.2 and marked Exs.A.1 to A.3 to substantiate their claim; whereas, on behalf of the respondent, K.A.Achari, driver of the bus, was examined as R.W.1 and no documents were filed.

8. On issue No.1, the Tribunal, having analyzed the evidence on record, disbelieved the version of R.W.1 and recorded finding that due to rash and negligent driving of the driver of the bus, the accident had occurred. On issue No.2, the Tribunal has taken the earnings as Rs.50/- per day or Rs.1,500/- per month or Rs.18,000/- per annum and deducted 1/3rd therefrom, which works out to Rs.12,000/- and applying multiplier '17.95', worked out the loss of dependency at Rs.2,15,400/-. Besides the same, the Tribunal also granted Rs.2,000/- towards funeral expenses, Rs.15,000/- towards consortium and Rs.10,000/- towards loss of estate, and, thus, granted a total sum of Rs.2,42,000/- with interest at 9% per annum from the date of petition till realization.

9. It is the aforesaid order which is under challenge in the instant appeal contending in the grounds that the Tribunal went wrong in attributing negligence to R.W.1 as it would be difficult to sight the persons standing nearby bushes or trees on the road side. It is also contended that the Tribunal went wrong in awarding Rs.10,000/- towards loss of estate. Except these grounds, no other grounds are agitated.

10. Heard Sri Aravilla Rama Rao, learned counsel for the appellant-Corporation. No representation for the respondents-claimants.

11. Perused the order and the evidence on record, both, oral and documentary, let in by the parties. The finding recorded by the Tribunal that due to rash and negligent driving of the driver of the bus, the accident had occurred, does not warrant any interference in view of the fact that it is well reasoned and based on appreciation of evidence. So far as the amount of Rs.2,15,400/- arrived at by the Tribunal towards loss of dependency by applying multiplier '17.95' and taking the notional income at Rs.1,500/- per month or Rs.18,000/- per annum and deducting $\frac{1}{3}^{\text{rd}}$ therefrom towards personal expenses is sound and reasonable and does not warrant any interference. Even the amount of Rs.10,000/- towards loss of estate, Rs.15,000/- towards consortium and Rs.2,000/- towards funeral expenses granted by the Tribunal, cannot be faulted. Therefore, the amount of Rs.2,42,000/- granted by the Tribunal towards loss of dependency has to be maintained. However, so far as the rate of interest is concerned, the Tribunal granted the same at 9% per annum from the date of petition till realization. The same requires interference and it is reduced to 7.5% per annum from the date of petition till realization in view of the decision of the Hon'ble Apex

Court in **Rajesh and others Vs. Rajbir Singh and others**^[1].

12. Accordingly, the instant appeal is allowed in part modifying the order passed by the Tribunal, by reducing the rate of interest, as indicated above, and confirming the same in all other respects. There shall be no order as to costs.

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

A. SHANKAR NARAYANA, J

9th February, 2016

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^[1] 2013 ACJ 1403