

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.2142 OF 2009

JUDGMENT:

Challenging the award of compensation of Rs.1,87,500/- with interest at 9% per annum granted by the learned Chairman, Motor Accidents Claims Tribunal - cum - VI Additional District and Sessions Judge, Prakasam District, Markapur, through the order and decree, dated 13.02.2007, in O.P. No.158 of 2005, the instant Civil Miscellaneous Appeal is preferred by the erstwhile Andhra Pradesh State Road Transport Corporation, Musheerabad, Hyderabad, represented by its Vice-Chairman - cum - Managing Director (for short 'APSRTC').

2. The appellant herein viz., APSRTC, which is owner of the APSRTC bus bearing No.AP-10-Z-8023 is the sole respondent in the O.P. before the Tribunal, while respondent Nos.1 and 2, who are parents of Satyanarayana Reddy, who died in the accident, are petitioner Nos.1 and 2 respectively.

3. For the sake of convenience, the parties are hereinafter referred to as they arrayed in the O.P. before the Tribunal.

4. The facts in brief are that on 25.12.2004 at about 6.30 p.m., while Satyanarayana Reddy, a 16 years old boy, proceeding towards Kothareddypalem on his Hero Honda motorcycle, near Sri Sai Lakshmi Restaurant, Darsi, an APSRTC bus bearing No.AP-10-Z-

8023 of Podili Bus Depot, came in the opposite direction driven at high speed in a rash and negligent manner and dashed the motorcycle, due to which the minor boy fell down, sustained head injury and succumbed to the same instantly. The petitioners being parents of the deceased, sought a sum of Rs.2,00,000/- as compensation.

5. Admittedly, the deceased boy was studying S.S.C. during the academic year. The claim was laid under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

6. A counter was filed by the APSRTC opposing the claim and raising a plea of violation of traffic rules and contending that the claim is exorbitant and excessive, sought to dismiss the claim petition.

7. The Tribunal having framed three (3) issues, held issue Nos.1 and 2 in favour of the petitioners; however, on the ground that the deceased was not possessing driving licence at the time of accident to drive two-wheeler, construed contributory negligence to the extent of 25% and out of the compensation arrived at Rs.2,40,000/- by applying multiplier '15' and other sums being awarded, deducted Rs.62,500/- proportionately towards 25% contributory negligence of the deceased and, granted an amount of Rs.1,87,500/- towards compensation to the petitioners.

8. The aforesaid order is under challenge in the instant appeal by the APSRTC on the ground that the Tribunal went wrong in not taking into consideration that the deceased was not holding valid

driving licence to drive two-wheeler at the time of accident, and, therefore, ought not to have fastened liability on the APSRTC.

9. Heard Sri P. Durga Prasad, learned Standing Counsel for APSRTC (appellant).

10. There is no representation for the petitioners (respondents), though, appearance is made.

11. Perused the order and decree under challenge and the evidence on record.

12. The findings of the Tribunal that the deceased contributed to the accident to the extent of 25% and deducting Rs.62,500/- towards contributory negligence of the deceased, cannot be faulted. The ground raised by the APSRTC that no liability ought to have fixed on it would not sustain for the reason that the documentary evidence through Exs.A-1 to A-5 would show that driver of the APSRTC bus has caused the accident; even charge-sheet was laid, as if Ex.A-5, which was registered as C.C. No.69 of 2005 on the file of Judicial Magistrate of First Class, Darsi besides the oral evidence of PW.2, an eyewitness to the occurrence. Therefore, viewed from any angle, certainly, the compensation determined by the Tribunal can either be viewed as excessive or exorbitant. The liability fastened on the APSRTC to the extent of 75% cannot be upset.

13. However, so far as rate of interest granted by the Tribunal at 9% per annum is concerned, the same is reduced to 7.5% per annum in view of the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**¹. The other grounds raised by the APSRTC are rejected.

14. Accordingly, the Civil Miscellaneous Appeal is allowed in part modifying the rate of interest alone, as indicated above. There shall be no order as to costs.

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

October 21, 2016.

PV

A. SHANKAR NARAYANA, J

¹ 2013ACJ1403 = 2013(4)ALT35