

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.2555 OF 2009

JUDGMENT:

The present appeal is preferred by the erstwhile Andhra Pradesh State Road Transport Corporation (APSRTC), Hyderabad, which is sole respondent in M.V.O.P. No.319 of 2006, on the file of the Chairman, Motor Accident Claims Tribunal - cum - I Additional District Judge, Ongole (for short 'the Tribunal'), aggrieved over the award and decree, dated 15-09-2008 granting a sum of Rs.5,22,000/- as compensation with interest at 7.5% per annum as against the claim of Rs.6,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') in which the death of one V. Srinivasa Rao alias Srinu, husband of petitioner No.1, father of petitioner No.2 and son of petitioner Nos.3 and 4, did occur.

2. The Tribunal having framed three issues and examining PWs.1 and 2 and marking Exs.A-1 to A-4 on behalf of the petitioners and RW.1, driver of RTC bus at the relevant time on behalf of the respondent therein, recorded the findings in favour of the petitioners holding that RW.1 drove the RTC bus in a rash and negligent manner at the relevant time occasioning the accident and, thereafter, determined the compensation by fixing monthly income at Rs.4,000/- as against the claim of Rs.5,000/-; deducted 1/3rd towards personal expenses of the deceased and the remainder as contribution to the family; applied multiplier factor '16' and arrived at Rs.5,12,000/-

towards loss of dependency. Besides the same, the Tribunal also granted a sum of Rs.5,000/- towards loss of consortium and another sum of Rs.5,000/- towards loss of love and affection; making a total compensation of Rs.5,22,000/- and awarded interest at 7.5% per annum thereon.

3. Heard Sri P. Durga Prasad, learned standing counsel for the appellant - respondent corporation. There is no representation for the respondents - petitioners.

4. The learned standing counsel for the appellant would submit that the Tribunal went wrong in recording a finding against RW.1, despite RW.1 clearly narrating the manner in which the accident occurred and submits that the Tribunal ought to have held that the deceased was driving the motorcycle while crossing the road in a rash and negligent manner and that the same occasioned the accident. The second contention is, that the Tribunal without there-being any legally acceptable evidence has fixed the monthly income as Rs.4,000/- , which ought not to have been done and notional income ought to have been arrived at and structured formula ought to have applied in determining the compensation.

5. Perused the order and the evidence on record, both, oral and documentary let in by both sides.

6. In fact, evidence of RW.1 belies the stand of the learned standing counsel appearing for the appellant that the deceased was driving the vehicle and while crossing the divider in a rash and negligent manner caused the accident occurred. In fact, his evidence shows that to avert taking place of the accident, RW.1 applied brakes and taken right, and then stopped the bus at some distance. That itself would indicate that RW.1 - driver of the bus, was driving the vehicle in a rash and negligent manner.

7. So far as the monthly earnings taken by the Tribunal is concerned, it is no doubt true, no documentary evidence is forthcoming, but basing on the evidence of PW.1, the Tribunal appears to have fixed the monthly earnings at Rs.4,000/-. But, in inquest report marked as Ex.A-3 against column No.B (2), occupation of the deceased was shown as 'jeep driver'. Therefore, it cannot be said that the Tribunal went wrong in accepting the profession of the deceased as jeep driver. Even looking at the change in law in view of the decisions rendered by the Hon'ble Supreme Court in **Sarla Verma & others v. Delhi Transport Corporation and another**¹ and **Rajesh and others v. Rajbir Singh and others**² the petitioners would have become entitled to future prospects, had they preferred appeal, besides permissible deduction of 1/4th ought to be applied as the petitioners are numbering four (4) as dependants on the deceased. Even,

¹. (2009) 6 Supreme Court Cases 121

². 2013 ACJ 1403

conventional sums referred to in the above are on lower side and, in fact, no amount at all was awarded towards funeral expenses. The petitioners would have become entitled to, at least Rs.50,000/- together towards conventional sum. Thus, viewed from any angle, the amount of Rs.5,22,000/- granted by the Tribunal towards compensation for the death of deceased with interest at 7.5% which is in tune with the decision of the Hon'ble Supreme Court in **Rajesh's Case** (Supra 2) cannot be said to be wrong, as the same is based on appreciation of evidence and well-reasoned and there is no ground to interfere with the award passed by the Tribunal.

8. Hence, the appeal is dismissed. There shall be no order as to costs.

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

A. SHANKAR NARAYANA, J

November 16, 2016.

Mgr