

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.2963 of 2011

JUDGMENT :

This Civil Miscellaneous Appeal, under Section 173 of the Motor Vehicles Act, 1988 (for brevity "the Act"), is preferred by the appellant - erstwhile A.P. State Road Transport Corporation (for brevity "the Corporation"), challenging the order and decree dated 22.03.2010, passed in M.V.O.P.No.1147 of 2007 by the Motor Accidents Claims Tribunal-cum-District Judge, Khammam District (for brevity "the Tribunal"), allowing the claim for a sum of Rs.6,00,000/-, made under Section 166 of the Act, by the respondents – claim petitioners, for the death of the deceased Ravinder @ Ravi, who died in a road accident that occurred on 03.03.2007 at about 2.20 p.m., at Yellandu Cross-roads, Khammam, on the ground that the compensation awarded by the Tribunal is highly excessive and arbitrary.

2. The appellant – Corporation herein is respondent and the respondents herein are petitioners in M.V.O.P.No.1147 of 2007. For the sake of convenience, the parties are referred to as they were arrayed in M.V.O.P.No.1147 of 2007 before the Tribunal.

3. When the appeal itself is taken up for hearing and final disposal, at that stage, MACMA.MP.No.3836 of 2015 is filed

by the petitioner, who is respondent No.2 in the main appeal, requesting to permit him to withdraw the deposited amount, as he was already declared major by the orders of this Court dated 26.08.2015.

4. In fact, there is no representation for the appellant – Corporation. Learned counsel for the respondents – petitioners would submit that the Tribunal has rightly taken the earnings of the deceased as Rs.4,000/- and awarded the compensation and there is no deviation in appreciation of evidence on record by the Tribunal and hence sought for dismissal of the appeal.

5. Perused the order under challenge and also the material on record.

6. The Tribunal has recorded a definite finding on issue No.1, holding that the driver of the bus bearing No.AP 11Z 2251 belonging to the Corporation was negligent, due to which alone, the accident had taken place, by discarding the evidence of R.W.1, who was the driver of the said bus. Unless such a finding is shown to be perverse, certainly, the order under challenge cannot be set aside. The Tribunal gave precedence to the documentary evidence available under Exs.A.1 to A.5 and oral evidence of P.W.2 over the evidence of R.W.1. Therefore, there is no deviation in appreciation of

evidence on record in tendering such a finding and hence, the same does not warrant interference by this Court.

7. Further, the Tribunal, by taking the age of the deceased as 40 years, fixed the income of the deceased as Rs.48,000/- per annum, basing on the documentary evidence under Ex.A.4, which shows that the deceased was a Member of Tailoring Union, which weighed the Tribunal in fixing the monthly income of the deceased as Rs.4,000/-. Of-course, the Tribunal deduced 1/4th towards personal living expenses of the deceased, since the dependants on the deceased are numbering to 4, who are the claim petitioners, among whom, petitioner No.2 was a minor as on the date of filing claim petition, as the law declared by the Hon'ble Apex Court in **Sarla Verma & others v. Delhi Transport Corporation and another**¹ would approve such deduction. The multiplier adopted by the Tribunal was '16', but, in fact, the appropriate multiplier is '15', since the age of the deceased was taken as 40 years, for the age group of persons between 36 and 40, as per the very same decision in **Sarla Verma's** case (supra 1).

8. However, in view of the fact that no future prospects were awarded, as per the decision in **Sarla Verma** (supra 1) **and Rajesh and others V. Rajbir Singh and others**², though, by then the decision in **Rajesh's** case (supra 2) was not rendered, still, nothing was considered towards future

¹ (2009) 6 Supreme Court Cases 121

² 2013 ACJ 1403

prospects. If the amount under future prospects and the conventional sum of Rs.50,000/- is also added to the loss of dependency, the compensation, to which the petitioners are entitled, would be far more than the amount that was awarded by the Tribunal. Therefore, viewed in that perspective also, the compensation awarded by the Tribunal cannot be said to be excessive and arbitrary.

9. For the aforesaid reasons, there are no merits in the instant appeal and the same is liable to be dismissed.

10. Accordingly, this Civil Miscellaneous Appeal is dismissed, confirming the order and decree dated 22.03.2010, passed in M.V.O.P.No.1147 of 2007 by the Tribunal. No order as to costs.

11. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE A. SHANKAR NARAYANA

28.09.2016.
Msr

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