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THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A. No.2265 of 2005

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JUDGMENT:

The appellant herein is the respondent in M.V.O.P.No.802 of 2001 on the file of the Motor Accidents Claims Tribunal-cum-I Additional District Judge, Cuddapah (for short, 'the Tribunal'),

The said O.P. was filed by the respondents herein claiming a compensation of Rs.2,00,000/- for the death of one Akumalla Vijayaraju, who was aged about 50 years, in a road accident that occurred on 27.05.2001 at about 8.30 P.M. It was stated that the accident occurred due to rash and negligent driving of the A.P.S.R.T.C. bus bearing registration No.AP10Z-368 by its driver. Claimant No.1 was the wife, claimant No.2 was the unmarried daughter and the claimants 3 and 4 are the sons of deceased.

The claim of the claimants was opposed by the A.P.S.R.T.C. by filing a counter.

The Tribunal framed the following issues:

- 1) Whether the death of the deceased by name Akumalla Vijayaraju, s/o Daluru occurred due to rash and negligent driving of APSRTC bus bearing No.AP10Z-368 by its driver belonging to the respondent?
- 2) Whether the petitioners are entitled for compensation? if so, to what amount?
- 3) To what relief?

Before the Tribunal, the wife of deceased was examined as PW1 and eye-witness was examined as PW2. Exhibits A1 to A4 were marked.

The Tribunal noticed that the deceased was a vegetable vendor and on the basis of evidence held that the accident

occurred due to rash and negligent driving of the driver of the R.T.C. bus. The Tribunal arrived at the compensation of Rs.2,88,000/-. But, in view of the claim for an amount of Rs.2,00,000/-, it awarded only Rs.2,00,000/- by its award dated 23.10.2003.

In the present appeal, the said award is challenged by the respondent-R.T.C. on the ground that the proper multiplier for a person aged about 50 years is '7.68' and the finding recorded by the Tribunal with regard to the cause of accident is not correct.

As per the decision of the Supreme Court in **Sarla Verma v. Delhi Transport Corporation**^[1] the appropriate multiplier for a person of 50 years is '13' and in the instant case, the multiplier of '12' was taken. Even otherwise also, the Tribunal arrived at a compensation of Rs.2,88,000/-, but it restricted the award to the claimed amount of Rs.2,00,000/-. Even though 1/3rd of the monthly earnings are deducted towards personal expenses of the deceased, the said deduction is also wrong in view of the latest position of law, as the dependants are four in number. The Tribunal, on the basis of oral and documentary evidence, came to the conclusion that the accident was caused by the bus, belonging to the A.P.S.R.T.C.

In the above circumstances, this Court sees no ground to interfere with the award in M.V.O.P.No.802 of 2001 dated 23.10.2003, and accordingly, this Appeal is dismissed. No order as to costs.

Miscellaneous Petitions, if any, pending shall stand closed.

A.RAMALINGESWARA RAO, J

28.01.2016
MVA

[\[1\]](#) 2009 (6) SCC 121