

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A. No.1224 of 2009

JUDGMENT :

The appeal filed by the appellant/A.P.S.R.T.C against the order dated 13.02.2009 in O.P. No.263 of 2006 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-District Judge, Mahabubnagar. The petitioners/claimants are parents and son of the deceased Vinod Babu who was worked as Coordinator of Velugu Project and was drawing a salary of Rs.6,500/- per month by the time of accident. The petitioners claimed compensation of Rs.10,00,000/- for the accidental death of the deceased in a motor accident occurred on 24.11.2005 due to rash and negligent driving of the driver of the appellant RTC bus bearing No.AP 10 Z 5860. The Tribunal after hearing both sides awarded a sum of Rs.6,75,000/- towards compensation to the claimants.

2) The appellant now impugning the said order contending that the Tribunal ought to have considered the evidence of R.W-1 wherein he has categorically stated that the deceased drove the vehicle in a rash and negligent manner and was talking on a cell phone and the bus driver stopped the vehicle to extreme left side, in spite of which the deceased dashed the bus and sole negligence is on the part of the deceased only that the learned Tribunal ought to have seen that the O.P is bad

for non-joinder of necessary party i.e., the insurance company of the motor cycle of the deceased, that the learned Tribunal ought to have seen when the claimant has filed a petition under Section 166 of the Motor Vehicles Act the learned Tribunal erred in granting the compensation as per Schedule II of Section 163-A of the Act and it ought to have seen that the tabular form of the Schedule II of Section 163-A prescribed the relevant multiplier upto the extent of income holders whose income is Rs.40,000/- per annum, whereas in this case allegedly the income of the deceased was Rs.60,000/- p.a. and the compensation awarded under different heads is at higher side and not in accordance with the provisions of the Act and prayed to allow the appeal by setting aside the order of the Tribunal.

3) Now the only point that arises for consideration in the appeal is whether the quantum of compensation awarded by the Tribunal is excessive or not?

4) Undisputedly the deceased was a married, 2nd respondent is his wife and the 3rd petitioner is his son. The income of the deceased is also proved by the claimants by placing reliance of P.Ws 2 and 3 and Ex.A-6 salary certificate and the Tribunal taken net salary of Rs.5,000/- into consideration for calculation purpose. Even the prospective earnings of 50% increase in the income of the deceased is taken and even half deducted

towards personal expenses, what the Tribunal awarded is no way excessive and even for arguments sake there is any contribution of the deceased of 15% to 20%, then also what the Tribunal awarded is no way requires interference by this Court while sitting in the appeal.

5) Accordingly and in the result, the appeal is dismissed by confirming the order passed by the Tribunal. There is no order as to costs.

6) Miscellaneous petitions, if any pending, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

28.01.2016
ksh