

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A.No.1802 of 2009

JUDGMENT :

The instant Civil Miscellaneous Appeal, under Section 173 of the Motor Vehicles Act, 1988 (for brevity "the Act"), is preferred by the appellants, erstwhile A.P. State Road Transport Corporation (for brevity "the Corporation"), challenging the order and decree dated 05.05.2008, passed in O.P.No.537 of 2006 by the Chairman, Motor Accidents Claims Tribunal (I Additional District Judge), Khammam District (for brevity "the Tribunal"), awarding a sum of Rs.5,47,000/- towards compensation with interest at 7.5% per annum from the date of the petition till the date of its deposit into the Court, as against the claim of Rs.10,00,000/- made by the respondents/petitioners, under Section 166 of the Act, for the death of one Sri Malleswara Rao, in a road accident that occurred on the intervening night of 9/10.03.2006,

2. The appellants herein, who are represented by the Depot Manager, Manuguru Depot, Khammam District, and Managing Director of the Corporation, are respondents; and the respondents herein are the petitioners in O.P.No.537 of 2006. For the sake of convenience, the parties herein are referred to as they are arrayed in O.P.No.537 of 2006 before the Tribunal.

3. The facts would show that on the intervening night of 09/10.03.2006, while the deceased – Malleswara Rao, who was aged about 54 years, working in Singareni Collieries Company Limited, drawing a salary of Rs.17,000/- per month, was returning home from Rajahmundry in the Bus bearing No.AP 11Z 5764, belonging to the Corporation and near Check Post, Ramavaram,

while the deceased was getting down from the bus, the driver of the bus drove it in a rash and negligent manner without properly observing whether the deceased got down from the bus or not, due to which the deceased fell down from the bus and sustained severe head injuries. Immediately, the deceased was shifted to the Main Hospital, Singareni Collieries Company Limited, Kothagudem, and he died while undergoing treatment. The petitioners, being the legal representatives of the deceased Malleswarara Rao, filed the claim petition seeking a compensation of Rs.10,00,000/- for the death of Malleswara Rao.

4. The 1st respondent – Depot Manager of Manugur Depot, Khammam District, remained exparte, and the 2nd respondent – Managing Director of the Corporation filed counter, opposing the claim, by raising various pleas.

5. Basing on the pleadings, the Tribunal framed as many as eight issues for determining the liability of the Corporation and the amount of compensation.

6. During enquiry, on behalf of the petitioners, the 2nd petitioner, who is the son of the deceased, examined himself as P.W.1, besides examining P.Ws.2 and 3, who are the eye witnesses, and marked Exs.A-1 to A-6. On behalf of the respondent - Corporation, the driver of the offending bus was examined as R.W.1 and no documents were marked.

7. The Tribunal, after going through the evidence and the material on record, had taken the gross salary of the deceased at Rs.13,220-20 per month and by taking the age of the deceased as 54 years, adopted the relevant multiplier '5', and after deducting 1/3rd towards personal and living expenses of the deceased,

arrived at a sum of Rs.5,20,000/- towards loss of dependency, besides granting a sum of Rs.10,000/- towards loss of estate, Rs.15,000/- towards loss of consortium, Rs.2,000/- towards funeral expenses, and thus, held that the petitioners are entitled to a total sum of Rs.5,47,000/- towards compensation with interest @ 7.5% per annum from 02.06.2006, and apportioned the said compensation amongst petitioner Nos.1 to 3 with suitable directions.

8 . Challenging the above said order and decree, the Corporation had filed the present appeal.

9. Heard Sri B. Mayur Reddy, learned Standing Counsel for the appellant – Corporation, and Ms. D. Radha Rani, learned counsel for the respondents – petitioners.

10. Perused the order under challenge and the evidence available on record.

11. In fact, as per the law declared 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], even leaving apart the future prospects to be taken at 15%, still, the amount granted by the Tribunal is on lower side. However, no cross-objection preferred by the respondents-petitioners nor did they prefer any appeal seeking enhancement of compensation on the ground that meager compensation was awarded by the Tribunal.

12. In that view of the matter, certainly, there is no merit in the present appeal and the same deserves to be dismissed.

13. Accordingly, the Civil Miscellaneous Appeal is dismissed,

confirming the order and decree dated 05.05.2008, passed in O.P.No.537 of 2006, in all respects. No order as to costs.

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

JUSTICE A. SHANKAR NARAYANA

19.08.2016.

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- [\[1\]](#) (2009) 6 Supreme Court Cases 121
[\[2\]](#) 2013 ACJ 1403