

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.356 OF 2005

JUDGMENT:

Having got dissatisfied with the award of Rs.1,64,000/- as compensation by the order dated 25.11.2004 in O.P. No.165 of 1997 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-District Judge, Nizamabad (for short, 'the Tribunal') as against the claim of Rs.4,00,000/- laid under Section 166(i)(c) of the Motor Vehicles Act, 1988 (for short, 'the Act') for the death of one Gurrula Ashok Reddy, who was father of appellant No.1 and son of appellant No.2, in a road accident, the instant appeal is preferred under Section 173 of the Act seeking enhancement of compensation.

2. Appellant Nos.1 and 2 herein are petitioner Nos.2 and 4, while respondent Nos.1 and 2 herein, who are the owner and driver of the RTC bus bearing registration No.AP 9Z 6074, are respondent Nos.1 and 2, respectively, in the original petition. Before the Tribunal, wife and father of the deceased were shown as petitioner Nos.1 and 3, respectively, and died.

3. For the sake of convenience, the parties hereinafter referred to as they were arrayed before the Tribunal in the original petition.

4. The fact-situation is not disputed by the respondents, who represent the Andhra Pradesh State Road Transport Corporation (respondent-Corporation), as to the death of one Gurralla Ashok Reddy (deceased) took place in a road accident when an RTC bus bearing registration No.AP 9Z 6074 driven by its driver-respondent No.1 in a rash and negligent manner at high speed dashed the motorcycle bearing registration No.ADB 1858, which the deceased was riding at the relevant time proceeding to purchase seeds for agricultural purpose. Thus, the petitioners laid a claim for Rs.4,00,000/- towards compensation.

5. Both the respondents have filed their separate written statements raising various pleas.

6. Basing on the said pleadings, the Tribunal framed three issues about the responsibility for the accident.

7. During enquiry, petitioner No.3 examined himself as P.W.1 besides examining the elder brother of the deceased, two others from the village and father-in-law of the deceased as P.Ws.2 to 5 and marked Exs.A.1 to A.10; whereas, on behalf of the respondents, no witnesses were examined and no documents were filed.

8. The Tribunal, on appraisal of evidence on record, held both the issue Nos.1 and 2 in favour of the

petitioners. However, while determining the compensation, the Tribunal, somehow, did not take into consideration the factum of deceased owning and possessing lands on the mere ground that no evidence was let in as to the income being earned by the deceased and, therefore, took notional income of Rs.15,000/- per annum as per the Second Schedule to Section 163-A of the Act treating him as a non-earning member and by deducting $\frac{1}{3}$ rd towards personal expenses and applying multiplier '16', arrived the loss of dependency at Rs.1,60,000/-. Besides the same, the Tribunal has also granted Rs.2,000/- towards funeral expenses and Rs.2,000/- towards transportation, making a total of Rs.1,64,000/- with interest at 9% per annum.

9. It is the aforesaid order which is under challenge in the instant appeal contending in the grounds that the Tribunal has not properly appreciated the evidence on record and it has granted only meager amount and, therefore, sought to grant the balance amount.

10. Heard Sri C.Ramesh Sagar, learned counsel for the appellants, and Sri A.Ravibabu, learned Standing Counsel for respondent No.1. The instant appeal against respondent No.2-driver was dismissed for default on 02.01.2012. The same would not make any difference in deciding the controversy herein.

11. Learned counsel for the appellants would submit that earlier when this matter came up before this Court in A.A.O. No.1192 of 1998 against the compensation of Rs.1,28,000/- granted by the Tribunal, while allowing the appeal by setting aside the decree and order on 03.11.2003, this Court remitted the matter and subsequently certain additional witnesses were examined and when the Tribunal once again taken up appraisal of evidence on record, thus, granted the aforesaid amount of Rs.1,64,000/- as compensation. Learned counsel would submit that the Tribunal, somehow, sidelined the pattadar passbook and pahanis for the relevant years and had the Tribunal considered them, certainly, fair and adequate compensation would have been determined.

12. Learned Standing Counsel for respondent No.1-Corporation, however, supported the order under challenge.

13. Perused the evidence on record. In fact, Exs.A.5 and A.6 stand in the name of the deceased himself showing that certain extents were standing in the name of the deceased and the relevant pahanis, more particularly, Ex.A.10 for the year 1996-97, during which year, the death of the deceased had occurred would also show the name of the deceased. Even the oral evidence through P.Ws.1 and 3 to 5 would reflect that the deceased after partition of their family properties got the extents

towards his share and used to cultivate the land. This apart, the very fact-situation would reflect that while the deceased was proceeding on two-wheeler to purchase seeds, he met with the accident and, thus, the said circumstance would substantiate not only owning the landed properties but also pursuing agriculture in the said land. It is no doubt true, the nature of crops being raised is not forthcoming, but even otherwise the personal cultivation cannot be ruled out. In which case, certainly, the deceased cannot be construed as non-earning person as the Tribunal did. Even keeping in view, that the deceased used to earn Rs.2,000/- per month or Rs.24,000/- per annum and after deduction of 1/3rd towards personal expenses, the contribution towards family can be worked out at Rs.16,000/-. Since the relevant multiplier is '16' as per the decision of the Hon'ble Supreme Court in **Sarla Verma & others v. Delhi Transport Corporation and another**^[1], loss of dependency works out to Rs.2,56,000/-. In view of the decisions of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**^[2] and **Sarla Verma's** case (supra 1), 50% of loss of dependency has to be taken in addition to what was determined towards future prospects. In which case, it works out to Rs.1,28,000/-. When the same is added, the total loss of dependency including loss of estate works out to Rs.3,84,000/-. The

Tribunal granted Rs.2,000/- towards funeral expenses and Rs.2,000/- towards transportation and the same is enhanced to Rs.16,000/-.

14. Thus, the appellants are entitled to a total sum of Rs.4,00,000/- (Rupees four lakh) as against Rs.1,64,000/- granted by the Tribunal towards compensation and the same is accordingly granted. So far as the rate of interest is concerned, the Tribunal granted the same at 9% per annum and the same is maintained on the amount granted by the Tribunal and the interest at 7.5% per annum is granted on the enhanced amount of Rs.2,36,000/- in view of the decision of the Hon'ble Supreme Court in **Rajesh's** case (supra 2).

15. Accordingly, the instant appeal is allowed modifying the order passed by the Tribunal, by enhancing the compensation, as indicated above, and confirming the same in all other respects. There shall be no order as to costs.

16. As a sequel thereto, miscellaneous applications, if any pending in the instant appeal, stand closed.

A. SHANKAR NARAYANA, J

29th June, 2016

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

[\[2\]](#) 2013 ACJ 1403