THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

MACMA.No.2068 of 2009

JUDGMENT:

On the ground that the compensation of Rs.5,58,000/- awarded by the Chairman, Motor Accidents Claims Tribunal-cum-IV Additional District Judge, Tirupati (for short, 'the Tribunal'), by his order and decree, dated 09.10.2007, in M.V.O.P.No.450 of 2004, is excessive and arbitrary, the respondent – Andhra Pradesh State Road Transport Corporation through its Managing Director, Museerabad, preferred the present appeal under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act').

2. The appellant herein is the respondent, while the respondents herein, who are the father, mother and sister of the deceased, respectively, are the petitioners-claimants in the original petition.

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

4. The manner in which the accident took place leading to the death of one M.Niranjan, who was riding his Pulsar motorcycle when the bus belonging to the respondent-Corporation hit him, is not in dispute. Since the relevant details have been narrated by the Tribunal, there is no need to reiterate the same.

5. The Tribunal framed three issues basing on the pleadings put forth by both parties.

6. During enquiry, petitioner No.2, mother of the deceased, examined herself as P.W.1, besides examining three more witnesses as P.Ws.2 to 4, and marked Exs.A1 to A11, besides exhibiting the registration certificate of Gajalakshmi Finance Corporation, Tirupati, as Ex.X1. On behalf of the respondents, driver of the bus was examined as R.W.1, but no documents were marked.

7. The Tribunal has taken annual income of the deceased at Rs.42,000/- @ Rs.3,500/- per month on the ground that he was doing part-time job as an Accountant in Gajalakshmi Finance Corporation, Tirupati, and, by deducting 1/3rd towards personal living expenses, arrived at Rs.28,000/- (Rs.42,000 x 1/3 = 14,000; 42,000 – 14,000=28,000) towards contribution of the deceased to the family. By taking the age of the mother of the deceased as 37 years, the Tribunal has taken the multiplier factor ‘16’ and arrived at Rs.4,48,000/- (28,000 x 16=4,48,000) towards loss of dependency. Besides the same, the Tribunal granted Rs.15,000/- towards loss of estate, Rs.91,500/- towards the amount spent for education, Rs.2,500/- towards funeral expenses and Rs.1,000/- towards transport expenses and, thus, awarded a total compensation of Rs.5,58,000/- with interest at 7.5% per annum.

8. Heard Sri N.Vasudeva Reddy, learned Standing Counsel for the appellant, and Sri P.Hemachandra, learned counsel for respondent Nos.1 to 3.

9. The finding recorded by the Tribunal touching the negligence on the part of R.W.1, occasioning the accident, cannot be disturbed as it is based on appreciation of evidence and there is nothing to show that the said finding is perverse.

10. The compensation determined by the Tribunal is mainly based on technical course, which the deceased was pursuing. As could be seen from the evidence on record, the deceased was studying II year B-Tech Course in Sri Vidya Niketan Engineering College, A.Rangampeta, and basing on the evidence of P.W.3, the Assistant A.O of the said College, and Exs.A8 to A10 issued by the said College, the Tribunal has awarded Rs.91,500/- towards the amount spent for education. In fact, this component is mainly under challenge in the instant appeal on the ground that once the compensation is awarded, the Tribunal was not right in considering the amount spent towards education and granting the same and, therefore, sought to set aside the award to that extent.

11. The grounds of appeal would show that the deceased, though, bachelor and earning income, the Tribunal fixed income at Rs.3,500/- per month based on the evidence of P.W.4, who asserts that the deceased was doing part-time job as an Accountant in their

Gajalakshmi Finance Corporation, Tirupati, and an amount of Rs.3,500/- per month was being paid to him. The Tribunal has accepted the evidence of P.W.4, but, however, having computed the annual income at Rs.42,000/- (Rs.3,500 x 12), deducted only 1/3rd there from towards personal living expenses, but not 50%, though, the deceased was a bachelor at the time of his death, and that is where the Tribunal appears to have went wrong. The Tribunal has not given any reason as to why the multiplier factor '16' has been chosen taking the age of the younger parent of the deceased. If 50% is deducted, the contribution of the deceased to the family would work out to Rs.21,000/-. When kept in view, the age of the deceased, the multiplier factor '18' is applicable and when the same is applied, loss of dependency works out to Rs.3,78,000/- . To this, the other amounts of Rs.15,000/-, 91,500/-, 2,500/- and 1,000/-, awarded by the Tribunal towards special damages, have to be added since the same are maintained.

12. Therefore, the petitioners are entitled to a total compensation of Rs.4,88,000/- (Rs.3,78,000 + 15,000 + 91,500 + 2,500 + 1,000), as against Rs.5,58,000/- awarded by the Tribunal, and the same is, accordingly, allowed.

13. So far as the rate of interest is concerned, the Tribunal granted the same at 7.5% per annum and the same is maintained on Rs.4,88,000/- from the date of petition till realisation as per the decision

of the Hon'ble Apex Court in **Rajesh and others v. Rajbir Singh and others**[1].

14. In the result, the instant appeal is partly allowed modifying the order passed by the Tribunal, by reducing the compensation, as indicated above. The awarded amount of Rs.4,88,000/- shall be apportioned among the petitioners in the same proportion in which the original compensation amount was directed to be apportioned and disbursed by the Tribunal. There shall be no order as to costs.

15. As a sequel, pending miscellaneous applications, if any, in this appeal shall stand closed.

JUSTICE A.SHANKAR NARAYANA

30.09.2016
v v

[1] 2013 ACJ 1403