

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

MACMA No.3709 of 2014

Date:01.07.2016

Between:

The Depot Manager,
Andhra Pradesh State Road
Transport Corporation, Narsampet Depot,
District, Warangal and another.

... Appellants.

AND

Smt. Aili Rajamani and others.

... Respondents.

The Court made the following :

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

MACMA No.3709 of 2014

JUDGMENT:

This appeal is preferred against orders dated 04-11-2013 in O.P.No.909/2009 on the file of Chairman, Motor Accidents Claims Tribunal-cum-District Judge, Nizamabad.

2. Respondents 1 to 3 herein submitted application under Section 166 (1) (c) of the Motor Vehicles act claiming compensation of Rs.8,00,000/- for the death of late A. Gangaram in a road accident that took place on 20-09-2009. Claimants contended that the deceased was aged about 34 years and he was agriculturist and also doing milk business and through that earning Rs.20,000/- per month.

They further contended that deceased was contributing entire earnings to the family and due to the sudden death, the claimants lost their dependency and as the extent was due to rash and negligence of the driver of the bus. They contended that the respondents are jointly and severally liable to pay the compensation.

3. Appellant-Corporation resisted the claim of claimants and the Tribunal, on a consideration of evidence of both oral and documentary evidence, granted compensation of Rs.7,88,000/- with interest. Now aggrieved by the quantum, Corporation preferred the present appeal.

4. Heard both sides.

5. Advocate for appellant mainly submitted that the Tribunal grossly erred in awarding compensation of Rs.7,88,000/- even though there was no proof with regard to income of the deceased as claimed in the claim petition. He submitted that the Tribunal grossly erred in taking Rs.4,400/- per month as income of the deceased as laborouer and the compensation has to be modified by reducing the same.

On the other hand, Advocate for claimants submitted that both P.W.1 deposed in their evidence that the deceased was doing cultivation but as the claimants could not produce any evidence in support of the agricultural income the Tribunal took the earnings of the deceased at Rs.4,400/- per month as a laborouer and in the year 2009, the labour charges were around Rs.150/- per day, therefore, the Tribunal is right in taking Rs.4,400/- and that there are no grounds to interfere with the compensation fixed by the Tribunal.

6. Now the point that would arise for my consideration in this appeal is whether order of the Court below is legal, proper and correct?

7. **Point:-**The claimants are wife and children of the deceased who admittedly died in a road accident. Wife of the deceased was examined as P.W.1 and she reiterated the petition averments with

regard to income of the deceased. One of the neighbouring right was examined as P.W.1 and he supported the evidence of P.W.1 to the extent that deceased was cultivation. P.W.2 did not speak anything with regard earnings of the deceased on cultivation and the evidence of P.W.1 that deceased was earning Rs.20,000/- per month on cultivation and milk business is not supported and corroborated by any other independent evidence. Considering the same, the Tribunal recorded a finding that claimants have not filed any record to show that the deceased owning and possessing agricultural land or doing milk business and therefore, treated the deceased as laborouer and fixed his earning at Rs.4,400/- per month. Now the objection of the appellant is that the Tribunal without any basis fixed Rs.4,400/- per month. Now the objection of the appellant is that Tribunal without any basis fixed Rs.4,400/- per month as earnings of the deceased. As seen from the record, no witnesses are examined on behalf of the appellant to dispute the version spoken to by P.Ws.1 & 2. Though P.W.1 specifically deposed that deceased was earning Rs.20,000/- per month the appellant did not adduce any evidence rebut the same. However, as the claimant has not questioned the finding of the Tribunal with regard to income of the deceased as claimed by them, there is no need to go into that aspect and norhave to examine is whether the earnings have been by the Tribunal at Rs.4,400/- per month as labour is reasonable and justifiable. As rightly pointed out by Advocate for claimant, labour charges in the year 2009 has to be taken into consideration. Admittedly, no evidence is produced by either side as to the charges of laborouer in the year 2009. if this Rs.4,400/- is calculated on daily basis it may come around Rs.150/- per day and in 209 this amount cannot be treated as high and excessive. Considering the same, I am of the view that the Tribunal was right in fixing the earnings of the deceased at Rs.4,400/- per

month and I do not find any wrong in that finding. The appellant-Corporation has failed to show that the Tribunal erred in awarding compensation of Rs.7,88,000/- by taking the income of the deceased at Rs.4,400/- per month.

8. For these reasons, I am of the view that there are no merits in the appeal and the appeal is liable to be dismissed.

9. Accordingly, appeal is dismissed and confirming the award of the tribunal. No costs.

10. As a sequel, miscellanies petitions, if any, pending in this appeal shall stand dismissed. No costs.

JUSTICE S. RAVI KUMAR

Date:01.07.2016

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