

HONOURABLE SRI JUSTICE G.SHYAM PRASAD

M.A.C.M.A.No.2368 OF 2006

JUDGMENT:

This appeal is arising out of award dated 9-5-2006 in O.P.No.538 of 2001, on the file of Chairman, Motor Accidents Claims Tribunal, Nizamabad. (for short, tribunal).

Appellants herein are A.P.S.R.T.C. represented by its Managing Director and respondents herein are petitioners in O.P. before the tribunal. Being aggrieved by the impugned award, the appellants preferred this appeal.

The tribunal, on consideration of evidence on record, has awarded compensation of Rs.5,00,000/-, as against the claim of the petitioners of Rs.5,00,000/- on account of death of deceased in the motor vehicle accident.

The short points arise for consideration are as follows:

- (1) Whether there is contributory negligence on the part of both the drivers of the vehicles involved in the accident;
- (2) Whether the A.P.S.R.T.C. is liable to pay interest at the rate of 9% p.a., and
- (3) Whether the rate of interest awarded by the tribunal is excessive?

Heard the arguments of learned counsel for the appellants Sri Vasudeva Reddy and Sri K.M.Mahender Reddy, learned counsel for R.3.

Learned counsel for the appellants submitted that tribunal has not correctly assessed compensation.

The income of the deceased was not assessed on any legal evidence. On the assumption that the deceased was running a chat

Bandar and earning Rs.3,600/- per month, the income of the deceased was assessed. As this is sufficient proof, the tribunal has considered the income of the deceased as Rs.3,600/-per month. The deceased was said to be a vendor on roads, selling chat. Even if the deceased is considered as daily wage worker working in an unorganized sector, his income could be taken into consideration as Rs.3,000/- per month. The deceased was a chat vendor on road. There is every likelihood of deceased getting more income than ordinary labourer. Therefore, there is every justification in taking the income of the deceased as Rs.3,600/- per month. There are no reasons to interfere with the findings of tribunal in calculating compensation, basing on the income of Rs.3,600/- per month.

Learned counsel for the appellants further contended that there is contributory negligence on the part of the drivers of the both the vehicles, and therefore, the insurance company is not liable to pay any compensation.

As a matter of fact, there is no evidence on record to show that there is contributory negligence on the part of drivers of both the vehicles. The tribunal has rightly appreciated the evidence on record, and fixed the liability on the driver of the crime vehicle. Therefore, there are no grounds to interfere with the award passed by the tribunal on this ground.

Learned counsel for the appellants submitted that the interest awarded by the tribunal at 9% p.a., is at higher side and it has to be scaled down to 7.5% p.a., as per the ratio laid down by the Apex

Court in *Reshma Kumari v. Madan Mohan*¹. The courts time and again held that there is no rate of interest fixed under Section 171 of the Motor Vehicles Act, 1988. It depends upon the facts and circumstances of the case and basing on the RBI guidelines and the practice of banks granting interest.

In this case, the tribunal awarded interest at the rate of 9% p.a. In the light of decision in *Reshma Kumari*, the rate of interest is reduced from 9% p.a., to 7.5% pa.

In the result, the appeal is partly allowed, modifying the award passed by the tribunal, reducing the rate of interest from 9% p.a., to 7.5% p.a., from the date of the petition till the date of realization.

As a sequel to the disposal of this appeal, the Miscellaneous Petitions, if any, pending, shall stand dismissed. There shall be no order as to costs.

JUSTICE G.SHYAM PRASAD

Dated 28-12-2016.

Dvs.

¹ 2013 (9) SCC 65

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Dvs