THE HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

M.A.C.M.A.No.170 of 2010
and
Cross-Objections (SR) No.23743 of 2011

COMMON JUDGMENT:

Both the APSRTC and the claimants, have challenged the Award dt.04.11.2008 in MVOP No.482 of 2006 passed by the Chairman, Motor Accident Claims Tribunal-cum-V Additional District Judge, Medak at Sangareddy (for short 'the Tribunal'), the former in the form of instant appeal and the latter by cross-objections.

2) The factual matrix of the case is thus:

a) On 17.08.2016 when the deceased—Golla Hanmanna, along with his family members was travelling in an auto bearing No.AP 23 V 654 and when the said vehicle reached Didigi village of Zaheerabad Bidar Road at about 6.00 am, one RTC Bus bearing No.AP 10 Z 5417 came in opposite direction being driven by its driver in a rash and negligent manner and dashed the auto of the deceased. In the resultant accident, some passengers in the auto sustained multiple injuries and Golla Narasappa and Golla Hanumanna died on the spot and Golla Tippamma in the hospital while undergoing treatment. It is averred that the driver of the bus was responsible for the accident. It is also averred that due to abrupt death of deceased—Golla Hanmanna, the claimants lost their breadwinner and became destitutes. On these pleas, the claimants filed MVOP No.482 of 2006 under Section 166 of Motor Vehicles Act, 1988 (for short "M.V Act") against respondent—APSRTC and claimed Rs.5,00,000/- as compensation under different heads mentioned in OP.

b) Respondent/APSRTC filed counter and opposed the claim petition denying the material allegations and urged to put the claimants in strict proof of the same. It denied the involvement of RTC Bus bearing No.AP 10 Z 5417 and the death of the deceased in the accident. It further contended that compensation claimed is excessive and exorbitant and thus prayed to dismiss the O.P.

c) During trial, PWs.1 and 2 were examined and Exs.A1 to A11 were marked on behalf of claimants. No oral and documentary evidence was adduced on behalf of respondent.

d) On appreciation of both oral and documentary evidence, the Tribunal awarded total compensation of Rs.3,84,000/- with costs and interest @ 7.5% p.a. against respondent under different heads as follows:

Loss of Dependency	Rs.3,60,000-00
Funeral Expenses	Rs. 2,000-00
Transport Charges	Rs. 2,000-00
Consortium	Rs. 10,000-00
Loss of love and affection	Rs. 10,000-00

Total	Rs.3,84,000-00

Hence, the appeal by APSRTC and Cross objections by the claimants.

3) The parties are referred as they stood before the lower Tribunal.

4) Heard arguments of Sri N.Vasudeva Reddy, learned Standing Counsel for RTC/appellant and Sri K. Raji Reddy, learned counsel for respondent Nos.1 to 6/claimants—Cross objectors.

5) Criticising the quantum of compensation as excessive, learned Standing Counsel for RTC would argue that the Tribunal has fixed the monthly income of the deceased as Rs.3,000/- without there being any cogent evidence. Even if the landed property of the deceased is accepted by virtue of Exs.A.6 to A.11—pahanies, that cannot be a ground to fix his income as Rs.3,000/- p.m because due to his death, his family did not suffer the loss of land as the land would remain intact and at best they lost his supervision only. In that view, the Tribunal ought to have fixed his monthly income at Rs.2,000/- only.

a) Nextly, he would argue that the Tribunal having accepted the age of the deceased as 43 years, committed blunder in fixing the multiplier as '15'. He submitted that as per the decision of the Apex Court in ***Sarla Verma vs. Delhi***

Transport Corporation[1], the appropriate multiplier for the persons in the age group of 41 - 45 years is only '14'. Due to the aforesaid mistakes, he would contend, compensation was drastically increased and hence needs to be revisited.

He thus prayed to allow and dismiss Cross Objections filed by the claimants for enhancement as there are no merits.

6) Per contra, challenging the Award as inadequate, learned counsel for claimants would argue that the Tribunal fixed a low amount as the monthly income of the deceased inspite of cogent evidence placed by the claimants in the form of Exs.A.5 to A.11 showing that the deceased was owning considerable lands and getting agricultural income and he was also doing commercial business. He argued that the Tribunal ought to have fixed his income as Rs.5,000/- p.m.

a) Nextly, he argued that the Tribunal erred in deducing 1/3rd from the gross earnings of the deceased towards his personal and living expenditure and in view of the fact that six members were depending on him, the Tribunal by following ***Sarla Verma***'s case (1 supra) ought to have deducted 1/4th.

b) Finally, he argued that the compensation awarded for loss of consortium and funeral expenses have to be revised following the dictum of Apex Court in ***Rajesh vs. Rajbir Singh and others***[2]***.*** He thus prayed to allow the cross objections and enhance the compensation suitably while dismissing the appeal filed by RTC.

7) In reply, learned Standing Counsel for RTC while agreeing with ***Rajesh***'s case (2 supra), wherein the Apex Court laid down that a sum of Rs.1,00,000/- towards the loss of consortium and Rs.25,000/- for funeral expenses have to be awarded, would argue that in another decision reported in ***Ramilaben Chinubhai Parmar vs. National Insurance Co.***[3], a Full Bench of the Apex Court awarded only Rs.50,000/- in all as conventional amount and therefore, the said decision may be followed while enhancing the compensation for the conventional heads.

8) In the light of above rival arguments, the point for determination is:

"Whether the compensation awarded by the Tribunal is just and reasonable or needs re-assessment?"

9) **POINT**: On perusal of the facts and evidence, I am of the view that compensation requires reassessment.

a) Sofaras compensation for loss of dependency is concerned, the Tribunal fixed the monthly income of the deceased as Rs.3,000/-. In that process, the Tribunal declined to accept Ex.A.5 but only considered Exs.A.6 to A.11—pahanies and held that the deceased was possessing Ac.2-34 gts of land and accordingly fixed his monthly income as Rs.3,000/-. I find no irregularity in it.

b) It is the case of claimants that the deceased besides cultivating his own lands in an extent of Ac.20-00gts, took other lands on lease for cultivation and earning income and he was also doing business in purchasing and selling food grains, pulses and vegetables and thus earning Rs.5,000/- p.m. They produced Exs.A.5 to A.11. Ex.A.5 is purported to be a certificate issued by the Abdul Khadir and Sons, Potato Merchants, Hyderabad. Ex.A.5 was produced to show that the deceased was selling vegetables in the market. The lower Tribunal rightly rejected Ex.A.5 for non-examination of concerned persons, who were said to have issued those receipts. Then Exs.A.6 to A.11 are the pahanies showing the deceased owning Ac.2-34 gts of land. It is true that even after the death of the deceased, the lands would remain intact as contended by the appellant and what the claimants lost is the personal supervision of the deceased. So they need to engage an agricultural supervisor to look after the lands by incurring some expenditure. The supervisory charges can be quantified as Rs.3,000/- p.m and therefore, the Tribunal was right in otherwise fixing the monthly income of the deceased as Rs.3,000/-. The annual income of the deceased which will serve the purpose as multiplicand comes to Rs.36,000/- (Rs.3,000/- x 12). There are six dependants of deceased. As such, as per ***Sarla Verma*** (1 supra), 1/4th instead of 1/3rd is to be deducted as personal expenditure of the deceased. Thus the net annual contribution of the deceased comes to Rs.27,000/- (Rs.36,000/- x 3/4th). The lower Tribunal has taken ‘15’ as multiplier considering the age of the deceased as 43 years. However, as per ***Sarla Verma***(1 supra), correct multiplier is ‘14’. Thus the compensation for loss of dependency comes to **Rs.3,78,000/-** (Rs.27,000/- x 14).

c) In ***Ramilaben Chinubhai Parmar***'s case (3 supra), a Full Bench of Apex Court has awarded a consolidated amount of **Rs.50,000/-** towards conventional heads like funeral expenses, loss of consortium and loss of estate. Therefore, the said amount can be awarded to the claimants under the conventional heads.

Thus, the total compensation payable to the claimants is as follows:

Loss of dependency	Rs.3,78,000/-
Conventional Heads	Rs. 50,000/-
Transport charges	Rs. 2,000/-
Loss of love & affection	Rs. 10,000/-
Total	Rs.4,40,000/-

So at the outset, the compensation is enhanced by **Rs.56,000**/- (Rs.4,40,000/- minus Rs.3,84,000/-).

10) In the result, the Appeal filed by RTC is dismissed and the Cross Objections filed by the claimants is partly allowed and ordered as follows:

a) The compensation is enhanced from **Rs.3,84,000/-** to **Rs.4,40,000**/- with proportionate costs and interest @ 7.5% p.a. from the date of OP till the date of realisation.

b) The appellant/RTC is directed to deposit the compensation amount within two(2) months from the date of this judgment, failing which execution can be taken out against it.

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

U.DURGA PRASAD RAO, J

Date: 08.08.2016
scs

[1] 2009 ACJ 1298 (SC) = (2009) 6SCC 121
[2] 2013 ACJ 1403 SC
[3] 2014 ACJ 1430 SC