

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A. No.119 of 2010

JUDGMENT:

The respondents—RTC maintained the present appeal impugning the award passed on 31.03.2009 in O.P. No.20 of 2006 on the file of Motor Accidents Claims Tribunal-cum-IV Additional District Judge, Ranga Reddy District (for short 'the Tribunal'), which is maintained by wife, daughter and father of deceased Gedde Chittibabu under Section 166 of the Motor Vehicle Act, 1988 (for short 'M.V. Act') for compensation of Rs.5,00,000/-, for the accidental death of the deceased. The Tribunal by fixing 20% composite negligence on the deceased and 80% on the RTC for not taking precaution while crossing the road besides finder of last opportunity with the bus driver of the RTC, awarded Rs.4,25,600/- (80% of Rs.5,32,000/-) with interest at 7.5% per annum from the date of petition till realisation to the claimants. Impugning the said award as highly excessive and exorbitant, the RTC maintained the present appeal.

2) Learned standing counsel for appellants reiterated the contentions in the grounds of appeal and the Tribunal ought to have fixed total liability and negligence on the part of the deceased and he is bound to verify while passing the road and it is difficult to control the vehicle all of a sudden and he fallen under the rear wheels of the vehicle, thereby to set aside the award of the Tribunal by exonerating the insurer.

3) Whereas, learned counsel for respondents—claimants submits that the award of the Tribunal holds good and for this Court while sitting in appeal there is nothing to interfere and once there is a

finder of a last opportunity with the bus driver, the burden is on the RTC much less to fix 20% of contributory negligence on the deceased and thereby sought for dismissal of the appeal.

4) Heard learned standing counsel for RTC and learned counsel for respondents/ claimants. Perused the material on record.

5) From the evidence on record, particularly PWs.1 to 3 including PW.2—eye witness with reference to Exs.A1 to A6 and even the evidence of RW.1—driver of the bus and Ex.A5—post mortem report, the deceased sustained crush injury, therefrom the Tribunal passed a reasoned order by fixing 80% contributory negligence on the RTC. There is nothing to interfere but for no cross objections and even on the quantum, what the Tribunal awarded Rs.4,25,600/- with interest at 7.5% per annum from the date of presentation of petition till realisation, is just and reasonable.

6) Accordingly and in the result, the appeal is dismissed. No order as to costs.

7) Miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.19.10.2016
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Date: 19.10.2016

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