

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1551 of 2005

JUDGMENT :

The instant Civil Miscellaneous Appeal is preferred by the respondent-A.P. State Road Transport Corporation, assailing the order and decree dated 23.12.2003 in M.V.O.P.No.647 of 2000 passed by the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, Kadapa District (for brevity "the Tribunal"), whereby and whereunder a sum of Rs.3,21,000/- was awarded towards compensation with interest at 9% per annum, in excess of the claim of Rs.3,00,000/- made under Section 166 of the Motor Vehicles Act, 1988, r/w. Rule 455 of the Motor Vehicles Rules, 1989 by the respondents/claimants, who are legal representatives of the deceased Sri Thota Venkata Ramana, who died in a motor vehicle accident.

2. The appellant herein is respondent and the respondents are claimants in M.V.O.P.No.647 of 2000. For the sake of convenience, in this appeal, the parties are referred to as they are arrayed in M.V.O.P.No.647 of 2000 before the Tribunal.

3. The facts, in brief, are that on 31.03.2000 at about 5-30 a.m., while the deceased – Thota Venkata Ramana was transporting the neem logs in a Double Bullock Cart to Rayachoty, the driver of the bus bearing No.AP 10Z 2505, belonging to the respondent-Corporation coming from Kadapa side, drove the bus in a rash and

negligent manner and at high speed, dashed the D.B. Cart near Sugavasi Rajaram Zilla Parishad High School, situated on Rayachoty-Kadapa main road, resulting in serious injuries to the deceased, who died on the way to S.V.R.R. Hospital, Tirupati. The D.B. Cart was completely damaged and the bulls also received injuries. The claimants, who are the legal representatives, being parents, wife and children of the deceased, made a claim for compensation of Rs.3,00,000/-. The sole respondent-Corporation filed counter opposing the claim, raising various pleas.

4. Basing on the pleadings, the following issues were framed for trial.

- (1) Whether the death of the deceased by name T. Venkata Ramana occurred due to rash and negligent driving of A.P.S.R.T.C. bus bearing No.AP 10Z 2505 belonging to the respondent?
- (2) Whether the petitioners are entitled for compensation, if so, to what amount?
- (3) To what relief?

5. During enquiry, the 2nd petitioner, who is the wife of the deceased, was examined as P.W.1, besides examining one Moorthy Narayana, who is an eye witness to the incident, as P.W.2, and got marked Exs.A.1 to A.4. On behalf of the respondent-Corporation, the driver of the offending bus was examined as R.W.1 and no documents were marked.

6. On appraisal of evidence on record, on Issue No.1, by disbelieving the evidence of R.W.1 and basing on entries made in

Ex.A.1 and A.4, the Tribunal had recorded a finding that due to the rash and negligent driving of R.W.1, the accident had occurred. On issue No.2, the Tribunal has taken the income of the deceased as Rs.2,500/- per month and after deducting Rs.1,000/- towards personal expenses and maintenance of bulls, arrived at contribution of the deceased to the family at Rs.1,500/- per month or Rs.18,000/- per annum. Further, by taking the age of the deceased as 35 years, and after applying the multiplier '17', the Tribunal had arrived the loss of dependency at Rs.3,06,000/-, besides granting a sum of Rs.15,000/- towards loss of consortium, and thus arrived at a total compensation of Rs.3,21,000/-. The Tribunal, though determined the compensation, for which the claimants are entitled to, at Rs.3,21,000/-, restricted the same to Rs.3,00,000/- only as claimed by them, and suitable directions were given as regards apportionment of the same among the claimants, with a further direction that the excess amount of Rs.21,000/- is subject to payment of excess Court fee within 15 days from the date of the order, with interest @ 9% per annum from the date of the petition till its actual deposit.

7. The aforesaid order is under challenge in the instant appeal preferred by the respondent-Corporation, contending in the grounds of appeal that the Tribunal totally ignored the contributory negligence on the part of the deceased and that the Tribunal ought to have apportioned the liability suitably and the Tribunal ought not to have taken the multiplier '17' and ought to have taken the right multiplier '14.81' as per the decision of the Hon'ble Apex Court in

BHAGWANDAS V. MOHD. ARIF^[1], hence sought to set aside the impugned order passed by the Tribunal.

8. Heard Sri Aravala Rama Rao, learned Standing counsel for the appellant-Corporation and Sri V. Bhaskar Reddy, learned counsel for the respondents-claimants and perused the impugned order and evidence let in by both sides.

9. The finding recorded by the Tribunal on Issue No.1 does not warrant any interference, as the evidence of R.W.1 would not clinchingly show that the deceased had contributed to the accident. It is also improper to hold that the deceased did contribute to the accident in view of the fact that the accident has taken place in the early hours at 5.30 a.m., on 31.03.2000. Hence, the finding recorded by the Tribunal on Issue No.1 is maintained. So far as determination of compensation is concerned, somehow, the Tribunal appears to have deviated in deducting Rs.1,000/- towards personal expenses from out of the income of the deceased at Rs.2,500/- per month. The Tribunal ought to have deducted 1/3rd towards personal expenses and ought to have worked out the loss of dependency by applying the multiplier '16', instead of applying '17', which appears to have applied basing on the Second Schedule to Section 163-A of the M.V. Act.

10. *Be that as it may*, since no future prospects were considered and that the deduction of Rs.1,000/- towards personal expenses of the deceased also was not done properly, awarding compensation of Rs.3,21,000/-, though exceeds the claim of Rs.3,00,000/- made

by the claimants, shall be construed as just and reasonable. Therefore, the instant appeal is without any merit and the same is liable to be dismissed.

11. Insofar as awarding of interest @ 9% per annum is concerned, the same is reduced to Rs.7.5% per annum as per the decision of the Hon'ble Supreme Court in RAJESH AND OTHERS V. RAJBIR SINGH AND OTHERS^[2].

12. Accordingly, the Civil Miscellaneous Appeal is allowed in part to the extent indicated above. No order as to costs.

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

JUSTICE A. SHANKAR NARAYANA

09.02.2016.
Msr

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[\[1\]](#) AIR 1988 AP 99

[\[2\]](#) 2013 ACJ 1403