

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1676 OF 2009

JUDGMENT:

The erstwhile Andhra Pradesh State Road Transport Corporation, represented by its Regional Manager, Srikakulam, who is respondent No.2 in M.V.O.P. No.66 of 2004 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge (Fast Track Court), Srikakulam (for short, 'the Tribunal'), assailing the order dated 13.12.2006, preferred the instant appeal under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act') mainly, on the ground that the award of compensation of Rs.2,95,000/- for the death of one Nageswara Rao is excessive and arbitrary.

2. The appellant herein, who is the erstwhile Andhra Pradesh State Road Transport Corporation, represented by its Regional Manager, Srikakulam, is respondent No.2, while respondent No.1 herein, who is wife of Nageswara Rao, is the petitioner, respondent No.2 herein, who is the driver of the RTC Bus bearing registration No.AP 10/Z 1466, is respondent No.1 and respondent No.3 herein, who was mother of the said Nageswara Rao, is respondent No.3 in the original petition.

3. For the sake of convenience, the parties

hereinafter referred to as they were arrayed before the Tribunal in the original petition.

4. The fact-situation would show that one Nageswara Rao (deceased), who was the husband of the petitioner and son of respondent No.3, on 01.09.2002, while driving a jeep bearing registration No.AP 30/T 6473, when reached Chilakapalem, an RTC bus bearing registration No.AP 10/Z 1466 driven by respondent No.1 in a rash and negligent manner at high speed dashed the jeep, due to which, the husband of the petitioner and other passengers travelling in the jeep sustained injuries and when he was shifted to the hospital, he succumbed to injuries. Therefore, a claim was laid for Rs.3,00,000/- under Section 163-A of the Act.

5. Respondent No.1-owner of the bus remained *ex parte*.

6. Counter was filed by respondent No.2-Corporation opposing the claim.

7. Respondent No.3 sailed with the petitioner seeking her share of compensation in the amount to be awarded.

8. Basing on the said pleadings, the Tribunal framed three issues about the responsibility for the accident.

9. During enquiry, the petitioner examined herself as P.W.1 besides marking Exs.A.1 to A.5 to substantiate her claim; whereas, no witnesses were examined and no documents were filed on behalf of respondent No.2-Corporation, but respondent No.3-mother of the deceased examined herself as R.W.1.

10. On appraisal of evidence on record, the Tribunal on issue No.1, recorded a finding in favour of the petitioner in fact, observing where a claim made under Section 163-A of the Act, the element of negligence need not be looked into, thus, held it in favour of the petitioner.

11. On issue No.2, the Tribunal, taking the age of the mother of the deceased as 50 years and earnings of the deceased at Rs.3,000/- per month as driver, besides recording the fact that the deceased was not just the driver, but the owner himself, deducted 1/3rd towards his personal living expenses and taken the balance of Rs.24,000/- per annum towards contribution to the family and applying multiplier '11', arrived the loss of dependency at Rs.2,64,000/-. Besides the same, the Tribunal also granted Rs.15,000/- towards loss of consortium, Rs.10,000/- towards loss of estate and Rs.5,000/- towards transport and funeral expenses, making a total of Rs.2,94,000/- rounding it off to Rs.2,95,000/- and granted the same with interest at 7.5% per annum to the petitioner and respondent No.3.

12. It is the aforesaid order which is under challenge in the instant appeal contending in the grounds that the amount of compensation granted by the Tribunal is highly excessive and, therefore, sought to set aside the order under challenge.

13. Heard Sri S.V.Ramana, learned Standing Counsel for the appellant-Corporation. Learned counsel Sri Aravala Rama Rao, who filed vakalat for the petitioner (respondent No.1 herein), has later become the Standing Counsel for the Corporation for a particular region. It is endorsed in the cause title of grounds of appeal that owner of the bus-respondent No.2 herein (respondent No.1 before the Tribunal) is not necessary party in this appeal. Though, served with notice, none appears for respondent No.3 herein, who is mother of the deceased.

14. As seen from the order and the material available on record, there is no merit in the instant appeal. In fact, the multiplier applied by the Tribunal appears to be on lower side. The Tribunal has taken the age of respondent No.3-mother of the deceased for reckoning the multiplier factor, despite the fact that the petitioner is no other than the wife of the deceased, in whose favour a sum of Rs.2,01,667/- was apportioned. Even the rate of interest at 7.5% per annum is in accordance with the rate of interest awarded by the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**^[1].

Therefore, there is absolutely no merit in the appeal.

15. Accordingly, the instant appeal is dismissed confirming the order under challenge passed by the Tribunal in all respects. There shall be no order as to costs.

16. As a sequel thereto, miscellaneous petitions, if any pending in the instant appeal, stand closed.

A. SHANKAR NARAYANA, J

16th August, 2016

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