

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
MONDAY, THE SEVENTEENTH DAY OF OCTOBER
TWO THOUSAND AND SIXTEEN
(17.10.2016)

PRESENT
THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
&
THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

M.A.C.M.A No.2599 of 2016

Between:

The APSRTC, rep.by its MD,
Musheerabad, Hyderabad
(Owner of APSRTC Bus bearing No.AP-28 Z-524
of Nizamabad-2 Bus Depot)

..... APPELLANT/ RESPONDENT No.1

AND

T.Shobha Rani and 5 others

.....RESPONDENTS

Counsel for the Appellant : A.RAVI BABU
S.C for TSRTC

Counsel for the Respondents :

The Court made the following:

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
&
THE HON'BLE SRI JUSTICE M.S.K.JAI SWAL

M.A.C.M.A.No.2599 of 2016

JUDGMENT: (per Hon'ble Sri Justice M.S.K.Jaiswal)

This appeal is directed against the order dated 30.09.2015 in M.V.O.P.No.58/2011 on the file of the Additional Motor Accidents Claims Tribunal-cum-Judge, Family Court-cum-IV Additional District and Sessions Judge, Adilabad, wherein the claim of the respondents 1 to 4 herein was allowed, awarding compensation of Rs.30,00,000/- with interest at 9% p.a. from the date of the petition till realization.

2. With the consent of both parties, the present appeal is being disposed of at the stage of admission.

3. Respondents 1 to 4 filed the claim petition, seeking total compensation of Rs.30 lakhs on account of death of the deceased T.Venkata Ramanaiah, who died in a motor vehicle accident that occurred on 18.12.2009. The 1st claimant was the wife, claimant No.2 was the daughter and claimants 3 and 4 were the sons of the deceased. According to the claimants, on 18.12.2009 at about 7.00 p.m. the deceased and other passengers were traveling in the Andhra Pradesh State Road Transport Corporation Bus (hereinafter referred to as "APSRTC Bus") bearing registration No.AP-28-Z524 from Nirmal to Adilabad, and when the bus crossed Kupti Bridge of N.H.No.7 road, all of sudden it dashed Lorry bearing registration No.AP-36-W953 which was coming in the opposite direction, resulting in the deceased sustained fracture to his skull and other bleeding injuries and died on the spot along with the other passengers and drivers of both the vehicles. It was further pleaded that

the accident occurred due to the rash and negligent driving of the APSRTC Bus by its driver by entering into the right side of the road margin. The claimants pleaded that the deceased was aged 53 years and was working as a Junior Veterinary Officer earning Rs.32,000/- per month by the date of accident and that he was hale and healthy.

4. The appellant filed counter opposing the claim and denying the liability to pay compensation and further alleging that the accident occurred due to the rash and negligent driving of the driver of the Lorry.

5. The owner of the lorry remained *ex parte*. The Insurance Company filed counter contending that the Lorry driver was not responsible and that the accident occurred due to the rash and negligent driving of the driver of the APSRTC Bus. It was further contended that the Lorry was not insured.

6. In support of their claim, the 1st claimant was examined as PW 1, the eyewitness to the accident was examined as PW 2 and an Officer of the Veterinary Dispensary, Sarangapur was examined as PW 3. Exs.A1 to A10, and Exs.X1 to X7 were marked on their behalf. No oral or documentary evidence was let in on behalf of APSRTC.

7. On a consideration of the evidence available on record, the Tribunal found that the accident occurred solely due to the rash and negligent driving of the APSRTC bus bearing No.AP28-Z-524 by its driver and not by the driver of the Lorry bearing No.AP-36-W-0953. The Tribunal further held that the claimants are entitled for a total compensation of Rs.30,00,000/- along with interest at 9% p.a. Accordingly, the Tribunal allowed the MVOP against the Management of APSRTC and dismissed the same against the owner of the Lorry and the

Insurer Company. Aggrieved by the same, the present appeal is filed by the APSRTC.

8. Heard Sri A.Ravi Babu, learned Standing Counsel appearing for the appellant. Perused the award and the evidence on record.

9. Now, the short question that arises for consideration is, whether the amount of compensation, determined by the Tribunal, is just and adequate, or excessive and arbitrary, as contended by the appellant?

10. The evidence on record shows that the deceased was working as a Junior Veterinary Officer working under the State Government as on the date of accident. Relying upon the evidence of PW 3, the Tribunal below determined the monthly income of the deceased as Rs.33,906/- and annual income at Rs.4,06,872/-. After following the guidelines enumerated in *Sarla Verma v. Delhi Transport Corporation*¹, the Tribunal determined the multiplicand at Rs.3,05,154/- towards annual loss of income of the deceased. The Tribunal has applied the multiplier of 11, which is considered appropriate for the age of the deceased. The Tribunal determined a total compensation of Rs.35,16,694/- to which the claimants are entitled to towards loss of dependency, consortium, transport, loss of estate, funeral and obsequies expenses and pain, loss and suffering.

11. In *Sarla Verma* (1-supra), while methodically explaining the process of award of compensation under various heads in cases of death, the Supreme Court, at para-9, held that no amount is to be awarded under the head of pain, suffering or hardship caused to the legal heirs of the deceased. Therefore, in our opinion, the Tribunal erred in awarding a

¹ (2009) 6 SCC 121

sum of Rs.25,000/- as 'compensation for pain, loss and suffering'. However, though the Tribunal held that the claimants are entitled to a sum of Rs.35,16,694/-, it has restricted the award of compensation to only Rs.30,00,000/- as claimed by the claimants. Therefore, even if the sum of Rs.25,000/- granted towards compensation for pain, loss and suffering, is disallowed, the award of the Tribunal is still sustainable.

12. The Tribunal has rightly awarded the amounts under the other heads of compensation based on the documentary evidence available on record and hence the same do not call for any interference by this Court as they are neither excessive nor unreasonable. In our opinion, the rate of interest awarded by the Tribunal at 9% p.a. is also reasonable. In the circumstances, except to the extent of invalidating the compensation awarded towards 'pain, loss and suffering', the award passed by the Tribunal is confirmed in all other respects.

13. In the result, the appeal is dismissed. No order as to costs.

As a sequel to the dismissal of the appeal, MACMAMP.No.4393 of 2016 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY,J

M.S.K.JAI SWAL,J

Date: 17.10.2016
Dsr