

THE HON'BLE SMT. JUSTICE ANIS

M.A.C.M.A. No. 3778 OF 2008

JUDGMENT:

This appeal is filed by APSRTC/respondent under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), aggrieved by the order and decree dated 30.06.2008, passed by Motor Accident Claims Tribunal –cum- Principal District Judge, Kadapa, in O.P.No.275 of 2007, awarding compensation of Rs. 9,78,000/-.

2. The claimants filed the above O.P. under Section 166 of the Act, claiming compensation of Rs. 12,00,000/- on account of death of one Konda Reddy (hereinafter referred to as 'the deceased') in a motor vehicle accident.

3. The brief averments made in the petition are that on 18.2.2007 when the deceased was returning to home in the evening on his cycle at about 8.45 p.m., the driver of the bus bearing registration No. AP 10 Z 945 owned by the respondent drove the bus rashly and negligently at high speed dashed against the deceased near R & B Guest House at Pulivendala. Due to which, the deceased sustained grievous injuries and while the deceased was in the process of shifting to Tirupathi from Government Hospital, Pulivendla, for better treatment, the deceased breathed his last.

4. Petitioners stated that at the time of accident, the deceased was aged 42 years, working as Lascar in Pulivendla Branch Canal Division in Sub Division-II at Pulivendla, by drawing a salary of Rs. 9,000/- per month. The first petitioner is his wife and petitioners 2 to 4 are his children and petitioner 5 is his aged mother. According to petitioners the accident was occurred due to rash and negligent driving of the driver of the respondent-Corporation and therefore they claimed compensation of Rs. 12,00,000/-.

5. The respondent-APSRTC denied the contentions of the petitioners and put the petitioners to prove the manner of accident, age, income of the deceased and also dependency of the petitioners, and denied that the accident occurred due to rash and negligent driving of APSRTC bus bearing No.AP10 Z 945 by its driver and finally contended that the claim of the petitioners was high and excessive, and prayed the Court to dismiss the petition.

6. Basing on the pleadings, the Tribunal framed three issues and to substantiate the claim, PWs 1 to 3 were examined and got marked Exs.A.1 to A.6. On behalf of respondent none were examined and no document was marked.

7. After considering the oral and documentary evidence, the Tribunal awarded compensation of Rs. 9,78,000/- to petitioners along with interest at 6% per annum.

8. Aggrieved by the compensation awarded by the Tribunal, APSRTC preferred the present appeal.

9. The learned counsel for the appellants argued that the Tribunal has not considered the age of the deceased properly. Though the deceased was born on 3.4.1956, his age was calculated wrongly i.e., instead of 51 years at the time of his death calculated as 41 years. If the age of the deceased is taken as 51 years, the multiplier 11 would be applicable and not 15 and prayed this Court to modify the award passed by the Tribunal.

10. On the other hand, the learned counsel appearing for claimants contended that the Tribunal rightly awarded Rs. 9,49,000/- towards compensation by taking appropriate multiplier 15 under the heads compensation towards loss of consortium, loss of estate, funeral expenses and transport charges, which the petitioners are entitled to and the said finding of the Tribunal needs no interference and prayed the Court to dismiss the appeal.

11. Having regard to the submissions made by the learned counsel appearing for both the parties, the point that arises for consideration is:

1. Whether the compensation awarded by the Tribunal is just and reasonable?

12. **Point:**

Admittedly, the evidence shows that the accident was occurred due to rash and negligent driving of driver of APSRTC. There is no dispute that the deceased was a Lascar in Government, Senior Assistant in the office of the Executive Engineer, Pulivendla drawing salary of Rs. 9,000/- per month. Further, as per Service Register of the deceased Ex. A6, his date of birth was 3.4.1956 and the deceased died on 18.2.2007. Therefore, as on the date of accident, the age of the deceased was 51 years. The Tribunal without going into the Service Register Ex. A6 has taken the age of the deceased as 41 years instead of 51 years. This has to be rectified. If the age of the deceased is taken as 51 years, the relevant multiplier would be 11. If it is calculated the monthly income of the deceased comes to Rs. 7,460/- the annual income would be Rs. 88,992 and after deducting 1/3rd of the amount towards his personal expenses the income of the deceased shall be computed at Rs. 59,328/- per annum

and if the multiplier of 11 is applied, the loss of dependency would be Rs. 6,52,608/- (Rs. 59,328x11=6,52,608).

13. The compensation awarded by the Tribunal towards loss of consortium in favour of first claimant at Rs. 10,000/-, towards loss of estate at Rs. 15,000/-, towards funeral expenses at Rs. 2,000/- and towards transport charges at Rs. 2,000/- shall remain as it is. Thus, the total compensation payable to claimants comes to Rs. 6,81,000/- (Rs. 6,52,608/- + 10,000/- +15,000/- + 2,000/- + 2,000/- = 6,81,000/-)

14. Accordingly, the compensation awarded by the Tribunal is reduced from Rs. 9,49,000/- to Rs. 6,81,000/-.

15. In the result, the appeal is disposed of. No order as to costs. Miscellaneous Petitions, pending if any, shall stand closed.

(ANIS, J)

Date: 03.01.2017
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