

HON'BLE SRI JUSTICE M. S. K. JAISWAL

MACMA No. 189 of 2013

JUDGMENT:

This appeal is preferred by the Appellant/ Andhra Pradesh State Road Transport Corporation, questioning the Order and Decree of the Chairman, Accidents Claims Tribunal - cum - I Additional Chief Judge, City Civil Court at Secunderabad, dated 14.03.2012 in O.P.No.621 of 2010, by and under which the Tribunal awarded a compensation of Rs.8,00,000/- for the death of P.Savan, who died in the accident that took place on 05.09.2008 at about 5.20 p.m. near Chikago Hotel, Begumpet.

2. The brief facts of the case are that the Respondents herein are the Petitioner Nos. 1 to 3 before the Tribunal, who are the legal heirs of the deceased Savan, being his wife and parents respectively. On 05.09.2008 at about 5.20 p.m., the deceased was proceeding towards Prakash Nagar from Rasoolpura on Honda Activa, and when he reached near the above said accident spot, the RTC Bus bearing No.AP-28Z-2014 came in a rash and negligent manner in the same direction and dashed the Activa from its behind. As a result, the deceased fell down and sustained serious injuries all over his body. Immediately, he was shifted to Gandhi Hospital for treatment, where the duty Doctor declared him as dead. Hence, the petitioners, being the legal heirs of the deceased, filed the claim petition.

3. The Appellant/ Corporation filed its counter denying all the contentions of the petitioners and stating that the accident occurred due to the negligence of the deceased himself and prayed for dismissal of the petition.

4. During the course of trial, the Tribunal examined PWs.1 and 2, and marked Exhibits A.1 to A.10 on behalf of the claimants/ petitioners, and no evidence has been adduced on behalf of the Appellant/ Corporation.

5. After hearing both sides and considering the entire evidence on record, the Tribunal concluded that the accident occurred due to the rash and negligent driving of the driver of the crime vehicle, and basing on the evidence of PWs.1 and 2, and the material produced before it, the Tribunal has awarded an amount of Rs.8,00,000/- as compensation for the death of the deceased Savan. Aggrieved by the same, the Appellant/ Corporation preferred the present appeal.

6. The main contention of the learned counsel for Appellant/ Corporation is that the Tribunal has erred in taking into consideration the monthly income of the deceased at Rs.6,000/- per month, even though no satisfactory evidence was produced. The learned counsel further submits that in view of the decisions of this Court as well as the Apex Court, the notional income of the deceased can be taken at Rs.4,500/- per month, but certainly not

at the rate of Rs.6,000/- per month. Having perused the material on record and in view of the facts and circumstances of the case, I find myself not in agreement with the learned counsel for the Appellant/ Corporation. Here is a case where the deceased was a young boy, aged about 21 years at the time of accident, and he was a licensed auto-driver. For a skilled person, like a licensed auto-driver, taking monthly income at Rs.6,000/- per month, cannot be said to be excessive or exorbitant. The wife of the deceased, as PW-1, categorically deposed that the deceased was earning an amount of Rs.15,000/- per month and produced driving license of the deceased. Even during her cross-examination by the Standing Counsel for the Corporation, nothing was elicited to discard or disbelieve her version. However, the Tribunal has taken monthly income of the deceased at a lower rate of Rs.6,000/- per month, and not as deposed by PW-1.

7. In view of the above, and having the totality of the facts and circumstances of the case, it cannot be said that the Tribunal had erred in any way in taking the monthly income of the deceased at Rs.6,000/- per month. The Tribunal has taken into consideration the age of the deceased and rightly applied the multiplier-18, and deducted $1/3^{\text{rd}}$ towards his personal expenses and granted compensation of Rs.8,00,000/-, which is quite just and reasonable. Hence, there are no merits in the appeal and the same is liable to be dismissed.

8. In the result, the appeal is dismissed, confirming the order and decree of the Tribunal under appeal. The Appellant/ Corporation shall deposit the balance amount together with interest, within a period of four weeks from today, and as and when the said amount is deposited, the respondents/ claimants are entitled to withdraw the entire amount, without furnishing any security.

As a sequel, the miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

Dt.27.07.2017

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M.S.K. Jaiswal, J.



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Dated: 27.07.2017

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