

HON'BLE SRI JUSTICE G. SHYAM PRASAD

M.A.C.M.A. No. 981 of 2010

JUDGMENT:

This appeal is directed against the order dated 17.12.2008 passed in MVOP No.100 of 2006 on the file of the Chairman, Motor Accidents Claims Tribunal-cum- District Judge, Chittoor granting compensation of Rs.5,00,000/- for the death of the deceased Gopi in a motor vehicle accident occurred on 09.07.2004. The Tribunal awarded compensation of Rs.4,23,000/- with interest at 9% per annum.

2. Aggrieved by the award passed by the Tribunal, the appellant-A.P.S.R.T.C. filed this appeal challenging the quantum of compensation.

3. The brief facts of the case are that on 09.07.2004 at 12.45 p.m. the deceased Gopi was going in A.P.S.R.T.C. bus bearing No. AP9-Z-7331 to his father-in-law's house; Arani Munirathnam Chetty was driving the bus from Bangarupalyam to Thumbapalyam village and when the bus reached, the deceased was getting down from the bus, then the driver of the bus without observing the deceased getting down from the bus, moved the bus and the deceased Gopi, fell down from the bus, and the rear left wheel of the bus ran over his head and he died on the spot.

4. The respondent filed written statement putting the petitioner to strict proof of age, occupation and income of the deceased. It is averred that the claim is excessive and sought for dismissal of the petition.

5. Heard the learned counsel for the appellant-Corporation and the learned counsel for the respondents-claimants.

6. The points that arise for consideration in this appeal are:

- i) Whether the accident occurred due to the rash and negligent driving of the driver of the bus or due to the negligence of the deceased?
- ii) Whether the compensation awarded by the Tribunal is excessive?

7. The appellant's contention is that the accident did not occur due to the rash and negligent driving of the driver of the R.T.C. bus and it was only due to the contributory negligence of the deceased.

8. The learned counsel for the claimants submitted that the Tribunal has given a clear finding with regard to rash and negligent act of the driver of the R.T.C. bus. It is obvious that the Tribunal has considered the evidence of PW-3-M.Jayachandra, an eyewitness to the accident. He narrated the accident before the Tribunal and his testimony was not discredited by Corporation. The Tribunal placed reliance on the evidence of PW-3 and documents Exs.A-1-certified copy of FIR, Ex.A-2-certified copy of inquest report, Ex.A-3-certified copy of charge sheet and Ex.A-4-certified copy of post mortem report. The Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the bus.

9. It is appropriate to refer to the evidence of PW-3 who was an eyewitness to the accident. He testified to the fact that he travelled along with the deceased Gopi and other passengers on the date of the accident in the crime vehicle. When the bus stopped near their village, the deceased Gopi was getting down from the bus, then the driver of the bus had driven it rashly, due to which the deceased fell down from the bus, and the rear wheel of the bus ran over the head of the deceased and he died on the spot. According to PW-3, the accident has occurred due to the rash and negligent driving of the bus by its driver. Nothing is elicited in his cross-examination to disbelieve his testimony. The Tribunal

has properly appreciated the evidence on record and came to the conclusion that the driver of the bus had driven the bus in a rash and negligent manner and he was responsible for the accident. If the driver had taken proper care while the deceased was getting down from the bus, the accident would not have occurred. In this regard, the testimony of independent witness PW-3 is trustworthy. Therefore, there is no force in the contention raised by the learned counsel for the appellant in this regard.

10. The other contention of the appellant is that the Tribunal has awarded excessive compensation and even the rate of interest @ 9% per annum.

11. In fact, the claim of the claimants was Rs.5 lakhs, but the Tribunal has awarded Rs.4,23,000/- with interest at 9% per annum. The deceased was a painter by profession. According to the claimants, the deceased was earning Rs.15,000/- per month. But, the Tribunal has taken his income at Rs.3,000/- per month like an ordinary labourer. The Tribunal has applied the correct multiplier to assess the loss of dependency though the claimants have claimed that the deceased was earning Rs.15,000/- per month. The compensation awarded by the for loss of dependency is quite reasonable as the income of deceased was taken only at Rs.3,000/- per month. The rate of interest awarded @ 9% per annum is quite reasonable in the facts of this case. Therefore, there is nothing to interfere with the award passed by the Tribunal. The compensation assessed by the Tribunal does not require any interference for reduction. Therefore, I do not see any valid grounds to interfere with the order passed by the Tribunal in awarding compensation with interest at 9% per annum from the date of the petition till payment.

12. In view of the foregoing reasons, the appeal is liable to be dismissed.

13. In the result, the appeal is dismissed. The award dated 17.12.2008 passed by the Tribunal in MVOP No.100 of 2006 is confirmed. There shall be no order as to costs. As a sequel, miscellaneous petitions, if any, pending in this appeal shall stand closed.

G. SHYAM PRASAD, J

Date:23.02.2017.
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