IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

[Special Original Jurisdiction]

THURSDAY THE TWENTY EIGHTH DAY DECEMBER
TWO THOUSAND AND SEVENTEEN

PRESENT

SMT. JUSTICE T. RAJANI

MACMA.No. 2429 OF 2006
AND
CROSS-OBJECTIONS SR.No. 12262 OF 2007

Between:

APSRTC ... appellant/Respondent No.1

V/s.

Murari Vijayalakshmi & 4-Ors. ... Respondents/claimants

Counsel for the appellant : Sri Durga Prasad

Counsel for the Respondents : Sri Srikanth Gadipudi

The court made the following: [Common Judgment follows]

SMT. JUSTICE T. RAJANI

MACMA.No. 2429 OF 2006
AND
CROSS-OBJECTIONS (SR). No. 12262 OF 2007

COMMON JUDGMENT :

MACMA.No. 2429 of 2006 is filed by the appellant-APSRTC, who is the first respondent before the Claims Tribunal, questioning the judgment and decree dated 18/07/2006 passed by the Motor Accidents Claims Tribunal in MVOP.No. 125 of 2003, whereas the Cross-Objections [SR].No. 12262 of 2007 are filed by the respondents 1 to 3/claimants. For the sake of convenience, the parties will be arrayed as they are arrayed before the Claims Tribunal in MVOP.No.125 of 2003.

2. Heard the learned standing counsel for the appellant-APSRTC and the learned counsel for the respondents 1 to 3.

3. MACMA.No. 2429 of 2006 is filed by the first respondent on the ground that there was contributory negligence on the part of the deceased and it is not properly appreciated and the evidence of PW-2 was believed in spite of, he being an interested witness. The Claims

Tribunal also erred in taking the gross income of the deceased as a basis of calculation.

4. Cross-objections are filed by the respondents 1 to 3/claimants questioning the award and decree dated 18/07/2006 passed by the Claims Tribunal in MVOP.No.125 of 2003 on the ground of inadequacy of compensation.

5. The learned standing counsel for the first respondent/APSRTC contends that the evidence of RW-1 was not believed by the Claims Tribunal and contributory negligence ought to have been fastened on the deceased.

6. A perusal of the evidence of PW-2, who is an eye-witness for the accident would show that rashness and negligence is totally attributed to the driver of bus bearing No. AP-10-Z-8084. Hence, compared to the independent evidence of PW-2, the self-serving evidence of RW-1 does not stand on better pedestal. Hence, concluding rashness and negligence on the part of the driver of APSRTC bus cannot be found fault with.

7. As regards, the inadequacy of compensation, the learned counsel for the respondents 1 to 3 claimants, contend that the future hike of the income was not considered by the Claims Tribunal. He relies on the judgment of the Hon'ble Apex Court rendered by the Constitutional Bench in **NATIONAL INSURANCE COMPANY LIMITED V/s. PRANAY SETHI & ORS.** {SPECIAL LEAVE PETITION (CIVIL) No. 25590 OF 2014} (OCTOBER 31, 2017), wherein, for a person of 48 years, which is the age of the deceased in this case, an addition of 25% hike towards future prospects in the salary of the deceased has to be taken. After considering the said hike, the loss of income towards future prospects comes to Rs.23,462=00. Out of the said amount, 1/3rd should be deducted towards the personal expenses of the deceased and then the loss of monthly income to the claimants comes to Rs.15,462=00 and annual loss comes to Rs.1,87,704=00 and the same multiplied by the multiplier '13' which is relevant for the age of the deceased comes to Rs.24,40,152=00. The above amount is awarded towards loss of future income to the claimants. Out of the said amount,

as contended by the counsel for the respondents, the Income-tax has to be deducted, which admittedly is at the rate of 30%, which comes to Rs.7,32,045=00. Thus, after the said deduction, the loss of future income would come to Rs.17,08,107=00 and the same is awarded towards loss of future income to the claimants. Apart from the above, following the aforesaid judgment, Rs.40,000=00 is awarded towards loss of consortium, Rs.15,000=00 is awarded towards loss of estate and Rs.15,000=00 is awarded towards funeral expenses. Hence, the total awarded amount comes to Rs.17,78,107=00 and the same is rounded off to Rs.17,79,000=00. This award shall relate back to the date of the decree and the enhanced amount shall carry interest at the rate specified and from the time indicated in the award of the court below.

8. MACMA.No. 2429 of 2006 is dismissed and the Cross-objections are partly allowed with proportionate costs.

9. As a sequel, miscellaneous petitions if any, pending in this appeal shall stand closed.

JUSTICE T. RAJANI.

28/12/2017
I s L

SMT. JUSTICE T. RAJANI

MACMA.No. 2429 OF 2006
[DISMISSED]
AND
CROSS-OBJECTIONS SR.No. 12262 OF 2007
[PARTLY ALLOWED]

: COMMON JUDGMENT :

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