

SMT. JUSTICE T.RAJANI

MACMA. No.2269 of 2006

JUDGMENT:

This appeal is preferred by the appellant, who is respondent No.3 before the Court below, assailing the Judgment of the VI Additional District Judge, Anantapur at Gooty, passed in O.P. No.119 of 2003 on 27.10.2005, on the grounds that the Court below, without any objective criteria arrived at the finding that he is disentitled to compensation on the ground that he received compensation from APSRTC, though, admittedly, APSRTC is not a party in the present case.

Heard the learned counsel on either side and perused the material on record.

The said O.P. was filed by the claimants, who are respondents 3 and 4 herein and sons of their deceased mother.

The appellant herein is the husband of the deceased, who figured as respondent No.3 in the said O.P. The Court below disallowed the claim of the claimants therein. The appellant herein stated that himself and his wife i.e. deceased were living separately from their children. From the petition, it is evident that they are majors being aged 30 and 28 years, respectively and their avocation was also shown as cultivation. Hence, they cannot be considered as dependents. The Court below considering the evidence of P.W.1, who is the first claimant in the said O.P., that the appellant herein received Rs.50,000/- from APSRTC did not award any amount to the appellant herein. There is a categorical admission made by R.W.1, appellant herein, that the deceased was depending on him and she was not an earning member.

At the hearing, the learned counsel for the appellant is not in a position to persuade this Court as to why there should be any difference of opinion with the Court below when it is not controverted that R.W.1, who is appellant herein received Rs.50,000/- amount from APSRTC as full satisfaction. It is not explained by him as to what that amount constituted and the components constituting the said amount. In the cross examination of R.W.1, he categorically stated that he gave undertaking that he will not make any claim in future against APSRTC. Under those circumstances, there is absolutely no basis for awarding any compensation to the appellant herein.

In the cross examination of P.W.1, he stated that his father was absconding for the last four years. Unless all the above facts are disproved and unless the appellant herein probabalises his dependance on the deceased and unless he explains the components constituting Rs.50,000/- granted by APSRTC there is no guidance from any corner, with the help of which any compensation can be granted to this appellant.

Having regard to facts and circumstances of the case and the submissions made by the learned counsel on either side, this appeal is liable to be dismissed and is accordingly dismissed but under the circumstances there shall not be any order as to costs.

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

JUSTICE T.RAJANI

Date: 07.07.2017
LSK