

THE HON'BLE MS. JUSTICE J. UMA DEVI

MACMA NO. 611 of 2009

JUDGMENT:

This appeal is filed by the respondent in O.P.No. 857 of 1998 on the file of Chairman, Motor Accidents Claims Tribunal (Prl. District Judge) at Nalgonda against the award, dated 11.12.2000 whereby the claim petition filed by the petitioners therein was allowed granting compensation of Rs.3,29,400/- together with interest @ 12% per annum on account of death of Mikkilineni Singaiah in a motor vehicle accident.

The facts of the case are stated in brief as follows,

That on 6.9.1998 at about 8.00 P.M. while the deceased Mikkilineni Singaiah was proceeding in his Maruthi car bearing No. AP 9 L 8964 from Suryapet to Hyderabad after completing his work at Sarvaram village along with P.W.2-Yadaiah, when he reached the outskirts of Tekumatla village, an RTC bus bearing No. AP 10 Z 844 came in opposite direction on wrong side in a rash and negligent manner and dashed against the Maruthi car driven by the deceased Mikkilineni Singaiah, due to which, the deceased Mikkilineni Singaiah received injuries and died on the spot. Police of Suryapet Rural Police Station registered a case in Cr.No. 81 of 1998 against the driver of the RTC bus for causing the above accident.

The petitioner No.1 is the wife and the petitioners 2 and 3 are the daughters of the deceased Mikkilineni Singaiah. The deceased was aged 57 years old by the date of his death. He was working as Deputy

Director of Marketing and earning Rs.15,000/- per month. They laid the claim for compensation of Rs.4,00,000/- as against the appellant-Corporation.

The respondent-Corporation had filed its counter denying the averments made in the aforementioned OP and had put the petitioners to strict proof of such averments. It was also the contention of the respondent-Corporation that the compensation claimed is excessive and exorbitant and on saying so, it had finally prayed for dismissal of the petition.

During the enquiry before the Tribunal, the petitioners examined the petitioner No.1 as P.W.1, the wife of the deceased and the eye-witness to the accident as P.W.2-Yadaiah and marked Exs.A1 to A5 being the attested copies of FIR, inquest report, post mortem examination report, certificate issued by Selection Grade Secretary, Agricultural Market committee and pay slip of the deceased for the month of August, 1998 issued by Selection Grade Secretary, Agricultural Market Committee, Hyderabad respectively. No oral or documentary evidence was adduced by the respondent. The Tribunal passed an award granting compensation of Rs.3,29,400/- to the petitioners with interest @ 12% per annum on appreciation of the evidence available in the case record.

The learned standing counsel appearing for the appellant-corporation contended that the Tribunal erred in not holding that there was contributory negligence on the part of the deceased. His main contention was that this was the admitted case of head on collusion.

Even though no evidence was there in the record to say that the negligence was on the part of the driver of the RTC bus exclusively, the Tribunal, instead of holding that the deceased contributed for the that accident, had made the respondent-Corporation alone liable to pay the compensation to the petitioners-claimants in OP No. 857 of 1998. There was no much quarrel from the appellant-Corporation as to quantum of compensation. As found from the contention putforth by the learned standing counsel for the appellant-Corporation during the course of hearing of this appeal, the main grievance was in respect of awarding rate of interest @ 12% per annum.

The Tribunal, after considering the evidence of the eye-witness to the accident (P.W.2) and Ex.A1-FIR, found that the accident occurred due to the rash and negligent driving of the RTC bus by its driver. This Court had not noticed any substantial material to believe the contention of the appellant that the accident occurred due to the contributory negligence of the deceased. No evidence of any sort of nature was adduced by the appellant in support of its contention that the accident occurred due to the rash and negligent driving of the Maruthi Car by the deceased. P.W.2-Yadaiah who was the eye-witness to the accident, categorically stated in his evidence that the RTC bus came opposite to the Maruthi Car in a negligent manner and hit the Maruthi Car driven by the deceased and due to the negligent driving of the RTC bus by its driver, the accident occurred. He denied the suggestion that the deceased himself drove the car in a rash and negligent manner. The respondent-Corporation admittedly had not

taken any steps to adduce any evidence to prove its contention that the driver of the RTC bus was not at fault and there was head on collision between the car and the RTC bus. Since no evidence of any sort of nature was coming forth from the side of the appellant establishing its stand that the deceased drove the Maruthi Car in a negligent manner and he contributed for the occurrence of the accident, this court has no hesitation to hold that the Tribunal was correct in holding that the accident occurred due to the rash and negligent driving of the RTC bus by its driver relying on the oral testimony of P.W.2 who spoke about the manner in which the accident took place.

Coming to the correctness or validity of the compensation awarded by the Tribunal to the legal representatives of the deceased, P.W.1, the wife of the deceased in her evidence deposed that the deceased was working as Deputy Director of Marketing and earning Rs.15,000/- and he was about to retire. She produced salary certificate of her husband (Ex.A5) wherein his salary particulars are mentioned. Placing reliance on the testimony of P.W.1 vis-à-vis the salary particulars mentioned in Ex.A5, the Tribunal took the income of the deceased as Rs.14,042/- per month and his contribution to the family as Rs.10,000/- per month and Rs.1,20,000/- per annum and after deducting some portion of his income towards personal expenditure, the Tribunal, on applying a multiplier of 2.62, assessed the loss of contribution of income at Rs.3,14,400/-. The Tribunal awarded consortium of Rs.15,000/- to the petitioner No.1. Thus the Tribunal

awarded a total compensation of Rs.3,29,400/- to the petitioners together with interest @ 12% per annum.

The learned standing counsel for the appellant-Corporation had not seriously disputed the quantum of compensation awarded by the Tribunal. The appellant's main grievance was in respect of rate of interest awarded by the Tribunal on total compensation of Rs.3,29,400/-. According to the appellant-Corporation, the Tribunal ought to have awarded interest @ 9% per annum, over which there is no much contest from the other side. Hence this Court is of the view that the rate of interest can be reduced to 9% per annum from 12% per annum.

In the result, the appeal is allowed in part reducing the rate of interest from 12% per annum to 9% per annum on the awarded compensation amount. Rest of the award passed by the Tribunal remains undisturbed. Miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

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JUSTICE J. UMA DEVI

Dt.27.7.2017

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