

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

M.A.C.M.A.No.1424 of 2010

JUDGMENT

The appellant/APSRTC preferred this appeal against the order and decree dated 06.10.2006 passed in O.P.No.287 of 2005 by the Chairman, Motor Accidents Claims Tribunal-cum-Principal District Judge, Medak at Sangareddy.

2. For the sake of convenience, the parties hereinafter will be referred to as they are arrayed in the O.P. before the Tribunal.

3. The facts, in brief, are that on 22.12.2003 at about 8.45 pm., one S. Sudhakar was riding his scooter towards Lingampally and when he reached near Kakatiyanagar, Ashoknagar, on the National Highway No.9, one APSRTC bus bearing No.AP-9Z-7480 driven by its driver in a rash and negligent manner and dashed against the scooter, due to which, he sustained severe injuries and succumbed to those injuries instantaneously. The deceased was working as Plumber and earning a sum of Rs.3,600/-per month at the time of accident. Due to sudden death of deceased, the petitioners-claimants being wife and minor sons are deprived of his earnings. Hence, they filed the claim petition claiming compensation of Rs.4,50,000/- against respondent No.1-APSRTC. It is stated that respondents 2 and 3, who are the parents of deceased, were not depending on the earnings of deceased.

4. R1 filed counter denying the averments made in the claim petition and stated that the compensation claimed is highly excessive and exorbitant.

5. Based on the pleadings, the Tribunal framed three issues. During enquiry, P.Ws.1 and 2 were examined and Exs.A1 to A6 were marked on behalf of the claimants. R.Ws.1 and 2 were examined on behalf of respondents, but no document was marked on their behalf.

6. After considering the entire evidence on record, the Tribunal awarded compensation of Rs.4,38,000/- with interest at 7.5% per annum from the date of petition till realization.

7. Learned counsel for appellant/APSRTC contended that the accident occurred due to head on collision between the two vehicles, as such, there was contributory negligence on the part of the deceased while driving his scooter and that the Tribunal ought not to have directed the Corporation to pay the entire compensation to the claimants. He further contended that the quantum of compensation awarded by Tribunal is excessive and exorbitant and the same may be reduced.

8. On the other hand, learned counsel for respondents-claimants submits that the Tribunal has properly appreciated the oral and documentary evidence on record and held that the driver of bus was responsible for the accident. He contended that as the deceased was aged about 25 years and was maintaining his wife, two

teenaged children and also parents, the Tribunal ought not to have taken his monthly income only at Rs.3,000/- and awarded lesser compensation.

9. The points that arise for consideration are:

(1) Whether the accident occurred due to contributory negligence on the part of the deceased?

2. Whether the compensation awarded by Tribunal is just and reasonable?

10. Insofar as rashness and negligence is concerned, the main contention of appellant/Corporation is that the accident took place involving the bus belonging to the Corporation and the scooter being driven by the deceased, but the deceased-scooterist came in opposite direction at high speed in a rash and negligent manner and hit the RTC bus and therefore, the driver of bus cannot be held liable for the accident. The further contention of the Corporation is that the evidence of bus driver-R.W.2 clearly shows that the driver of scooter i.e., deceased came in opposite direction in a rash and negligent manner and as he could not control the speed, dashed against the right side of bus and that the accident occurred due to contributory negligence on the part of the deceased and therefore, the driver of bus was not solely responsible for the accident and the scooterist is equally responsible for the accident.

11. When the oral evidence is juxtaposed with the documentary evidence, it is found that the evidence of R.W.2, the driver, appears to be self-exculpatory in nature. Immediately after the accident, the

complaint was lodged against the driver of the bus and the same was marked as Ex.A1. Ex.A2 is the charge sheet filed by the police after completion of investigation. Ex.A3 is the inquest panchanama and Ex.A5 is the scene of offence panchanama. In all these documents prepared by the investigating agency, it is clearly mentioned that the accident occurred due to rash and negligent driving of the driver of RTC bus. Even in the inquest panchanama-Ex.A3, it is clearly mentioned that on enquiry, the neighbouring people have stated that the accident took place due to rash and negligent driving of the driver of RTC bus. Ex.A5-scene of offence panchanama, which was prepared immediately after the accident, coupled with the evidence of P.W.2 clearly shows that the accident took place due to rashness and negligence on the part of the driver of RTC bus as he did not stop the vehicle immediately after the accident and proceeded ahead. Thus, as per the documentary evidence coupled with the oral evidence of P.W.2, it is clear that the driver of bus was only responsible for the accident. Therefore, I see no substance in the contention of the appellant/Corporation that there was no rashness or negligence on the part of the driver of RTC bus and there was contributory negligence on the part of the deceased.

12. With regard to quantum of compensation, the Tribunal held that as per the evidence of P.W.1, the deceased was aged about 25 years and was earning a sum of Rs.4,000/- per month at the time of accident. However, no evidence was produced either oral or documentary in support of the contention that the deceased was

earning a sum of Rs.4,000/- per month. Therefore, the Tribunal has rightly taken the notional income of the deceased at Rs.3,000/-per month and determined the compensation at Rs.4,08,000/- towards loss of future earnings after deducting 1/3rd towards his personal expenses by applying appropriate multiplier. The Tribunal also awarded a sum of Rs.15,000/-towards loss of consortium and Rs.15,000/- towards loss of estate. Thus, in all, a sum of Rs.4,38,000/- is awarded to the claimants towards compensation and the same cannot be said to be exorbitant or excessive. Therefore, the Tribunal has rightly appreciated the oral and documentary evidence in determining the compensation and there are no grounds to interfere with the same.

13. In view of the above, the appeal is dismissed. No order as to costs. Miscellaneous petitions, if any, pending in this appeal shall stand dismissed.

21st June, 2017
sj

M.S.K. JAISWAL, J.