

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

M.A.C.M.A No. 1244 of 2010

JUDGMENT:

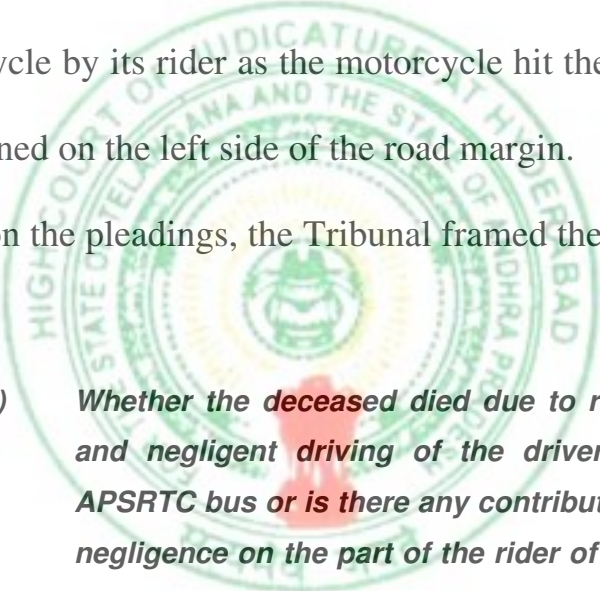
This appeal is arising out of the order dated 12.04.2010 in M.V.O.P.No.450 of 2008 on the file of the Chairman, Motor Accidents Claims Tribunal-cum District Judge, FAC II-Additional District Judge (FTC), Ongole, (for short, 'the Tribunal').

2. The appellants-claimants filed MVOP No.450 of 2008 before the Tribunal seeking a compensation of Rs.3,50,000/- on account of the death of their son in a motor vehicle accident that took place on 03.04.2008. Brief facts of the case are that on 03.04.2008, at about 4:40 PM, while the deceased along with his two friends, was proceeding towards Kodigumpala village, after attending their relatives marriage at Nagireddypalli village, and when they were proceeding through Morapaguntala and Kottalapalli villages, near a turning, an APSRTC bus bearing No.AP-10Z-7883, dashed against the motor cycle. As a result, the deceased sustained multiple injuries and he was immediately taken to Government Hospital, Kanigiri, and from there to Government Hospital, Ongole and from there he was shifted to People's Trauma Hospital, Guntur, where he succumbed to injuries. A case was registered in Crime No.4 of 2008 of Veligandla Police Station for the offences punishable under Sections 337, 304A IPC. Alleging that the accident occurred only due to the rash and negligent driving by the driver of the APSRTC bus, the appellants

filed the claim petition against respondents 1 and 2, who are the Vice Chairman & Managing Director, APSRTC, Musheerabad, Hyderabad; and the Regional Manager, APSRTC, Prakasam Region, RTC Bus Stand Complex, Ongole, respectively.

Respondent No.1 remained *ex parte*. Respondent No.2- Divisional Manager, Ongole, filed a written statement denying all the material averments in the claim petition and contending that the accident was not due to the rash and negligent driving by the driver of the APSRTC bus, instead it was due to the rash and negligent riding of the motorcycle by its rider as the motorcycle hit the bus though the bus was stationed on the left side of the road margin.

Based on the pleadings, the Tribunal framed the following three issues:

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- (i) ***Whether the deceased died due to rash and negligent driving of the driver of APSRTC bus or is there any contributory negligence on the part of the rider of the motor cycle also?***
 - (ii) ***What is the correct age & income of deceased as on the date of accident?***
 - (iii) ***Whether the petitioners are entitled for compensation, if so, to what extent and from whom?***
 - (iv) ***To what relief?***

On behalf of the appellants-claimants, PW.1 was examined and Exs.A1 to A5 were marked. On behalf of the respondents, one SK Ibrahim was examined.

The Tribunal, on consideration of the evidence available on record, partly allowed the petition, by fixing the liability of the respondents at 80%, and by awarding a compensation of Rs.2,63,200/- against the respondents with interest at 9% per annum and proportionate costs. Aggrieved by the quantum of compensation and seeking enhancement, the claimant filed this appeal.

3. Heard Sri Nutalapati Krishna Murthy, learned counsel for the appellants; and Sri P.Durga Prasad, learned counsel representing the learned Standing Counsel for the respondent-APSRTC.

4. Learned counsel for the appellants submits that the Tribunal has apportioned the liability of the respondents at 80%, and liability on the part of the deceased at 20%. He submits that the Tribunal has awarded a compensation of Rs.17,000/- towards loss of estate and funeral expenses which requires to be enhanced.

5. Learned counsel for the respondent-APSRTC contended that the Tribunal has properly assessed the compensation and it does not require any interference.

6. On consideration of the arguments of both the sides, and material available on record, it is obvious that the Tribunal has awarded Rs.17,000/- under the Heads of loss of estate and funeral expenses which can be enhanced. In view of the decision of the Hon'ble Supreme Court in **Ramilaben Chinubhai Parmar and Ors.**

v. National Insurance Co. and Ors¹, an amount of Rs.50,000/- can be awarded for conventional expenses, however, keeping in view the facts and circumstances of the present case, an amount of Rs.30,000/- is awarded for loss of estate, and an amount of Rs.30,000/- is awarded for funeral expenses. Computing the amount as per the liabilities of the respondent-APSRTC at 80% and that of the deceased at 20%, the total compensation entitled to by the appellants is shown in the following tabular format.

SNo	Head	Compensation Awarded by the Tribunal	Compensation enhanced
1.	Loss of dependency	Rs.3,12,000/-	Rs.3,12,000/-
2.	Loss of estate and Funeral expenses	Rs.17,000/-	Rs.48,000/-
	Total	Rs.3,19,000/-	Rs.3,60,000/-

7. In the result, the appeal is partly allowed by enhancing the compensation awarded by the Tribunal from Rs.3,19,000/- to Rs.3,60,000/- with interest at 9% per annum, and proportionate costs, from the date of petition till the date of realization. No costs. Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE G.SHYAM PRASAD

07th February, 2017
KSM

¹ 2014 ACJ 1430

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