

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A.No.739 of 2010

JUDGMENT:

The respondent/ Andhra Pradesh State Road Transport Corporation (for short 'APSRTC'), Hyderabad, having been aggrieved by the award of the tribunal dated 17.04.2009 in O.P.No.100 of 2008 maintained by the two claimants, no other than parents of the deceased by name M.Sri Harsha, aged about 25 years as per the Ex.A4-Post Mortem Certificate, who maintained the claim for Rs.3,00,000/- under Section 163-A of the Motor Vehicles Act (for short 'the Act'), from the contest by the APSRTC since awarded by the tribunal of Rs.2,64,500/- with interest at 8%p.a., impugning the same, maintained the appeal with the contentions in the grounds of appeal vis-à-vis oral submissions of the learned Standing Counsel of the APSRTC that the tribunal gravely erred in not considering the fact that the deceased was bike rider with pillion rider also contributed to the accident and could have been apportioned liability of 50% at best even bus driver not examined as a witness on behalf of APSRTC if at all not be exonerated totally from the bus not even touched the bike, he died because of fallen while riding the bike, thereby sought for allowing the appeal either by exonerating APSRTC or at least fixing equal

contributory negligence of the deceased by reducing the compensation and also rate of interest.

2. Whereas, it is the submission of the learned counsel for the claimants that the award of the tribunal holds good but for no cross objections, the compensation to be enhanced thereof and sought to dismiss the appeal.

3. Heard and perused the material on record.

4. The crux of the case is whether there is contribution of the deceased or not? A perusal of Ex.A4-Post Mortem Certificate shows multiple crush injuries and death was due to crush injuries instantaneously, which is suffice to say but for as claimed crushed under the wheels of the bus from the negligence of the driver of the bus and the finding of the tribunal in that regard requires no interference.

5. Even coming to the contentions of quantum of compensation and rate of interest are excessive concerned, the minimum earnings to be taken as per Schedule II of the Motor vehicles Act of Rs.15,000/- p.a. to be read as Rs.30,000/- p.a. vide Kishan Gopal Vs Lala¹. If the same is taken into consideration and deduction towards personal expenses of the deceased is 1/3rd but not half, even the deceased was a bachelor, if the Schedule-II of the Act is

¹ 2014(1)SCC-244)

applied, there from even Rs.7,500/- is awarded towards loss of estate and funeral expenses and what the tribunal awarded of Rs.2,64,500/- is no way excessive but for to reduce the rate of interest from 8%to 7.5%p.a.

6. Accordingly, the appeal is partly allowed while confirming the quantum of compensation, however, by reducing the rate of interest from 8%to 7.5%p.a. In other respects, the award of the tribunal holds good. There is no order as to costs.

7. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

Date:06.01.2017
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