

HON'BLE SMT. JUSTICE T. RAJANI

M.A.C.M.A. No.2153 of 2006

JUDGMENT :

This Civil Miscellaneous Appeal, under Section 173 of the Motor Vehicles Act, 1988 (for brevity "the Act") is preferred by the appellant – A.P. State Road Transport Corporation, assailing the order and decree dated 31.03.2006 in M.V.O.P.No.220 of 2003 passed by the Chairman, Motor Accidents Claims Tribunal-cum-VII Additional District Judge, Kakinada, East Godavari District (for brevity "the Tribunal"), on the grounds – that the Tribunal failed to see that the sketch of the scene of accident was not filed and failed to see that the evidence of P.W.2, who is a direct witness to the occurrence, is not supported by any independent evidence and failed to see that P.W.2 is an interested witness, that the Tribunal failed to appreciate the evidence of P.W.1, who categorically stated in his cross-examination that two heavy vehicles cannot pass simultaneously and which is corroborated with the evidence of RW.1, that the Tribunal erred in taking Rs.2,000/- per month as income of the deceased without there being any evidence to that effect and also erred in applying the appropriate multiplier '17', instead of '12'.

2. Heard Smt. B.G. Uma Devi, learned Standing Counsel for the appellant-Corporation as well as Smt. Kalpana Ekbote, learned counsel for respondent Nos.1 to 5/petitioners and perused the material on record.

3. At the hearing, learned Standing Counsel for the appellant-Corporation could not make any tenable arguments with regard to the income of the deceased taken by the Tribunal. Moreover, in the considered opinion of this Court, as Rs.2,000/- per month taken as income of the deceased is very low, the same needs no interference at the instance of the appellant.

4. Even with regard to the multiplier '17' adopted by the Tribunal, the learned Standing Counsel for the appellant-Corporation was unable to put-forth any tenable argument. However, as per the decision rendered by the Apex Court in the case of SARLA VERMA v. DTC¹, the multiplier for a person, who is aged 31 years, is '17'. Therefore, in that regard also no interference is required with the impugned order.

5. Regarding the negligence aspect, though learned Standing Counsel for the appellant-Corporation contends that P.W.2 is an interested witness, she could not succeed in assailing his evidence, moreso, in the background of Departmental enquiry initiated against RW.1 – Driver of the offending Bus bearing No.AP 10Z 5973 belonging to the

¹ (2009) 6 SCC 121

appellant-Corporation, wherein he was found guilty and one increment was cut by way of punishment. Simply because P.W.2 is a known person to the deceased and P.W.1, who is the wife of the deceased, is an interested witness, the same cannot be a ground to eschew his evidence from consideration.

6. For the aforesaid reasons, this Court does not find any reason to interfere with the impugned order passed by the Tribunal.

7. Accordingly, the Civil Miscellaneous Appeal is dismissed. Proportionate costs are awarded.

8. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

02.06.2017.
Msr



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