

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

M.A.C.M.A.No.912 of 2010

JUDGMENT

This appeal is directed against the order and decree dated 22.04.2009 passed in O.P.No.751 of 2004 by the Chairman, Motor Accidents Claims Tribunal (I Additional District Judge) at Khammam.

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

3. The facts, in brief, are as follows:

The petitioners are wife and son of deceased Uppalaiah. On 19.04.2004 at about 8.00 PM., while the petitioners and said Uppalaiah were proceeding by walk towards Rallagudem to attend thrashing work and when they reached near Rallagudem village turning, one RTC bus bearing registration No.AP 11-Z-1518 came in a rash and negligent manner at high speed and dashed against said Uppalaiah, due to which, Uppalaiah died on the spot. The deceased was aged about 30 years at the time of accident and he used to earn Rs.3,000/-per month as Coolie. Due to sudden death of the deceased, petitioners lost their source of income. Hence, they filed the claim petition claiming compensation of Rs.3,00,000/- payable by respondents-APSRTC.

4. R2 filed counter denying the manner of accident and stated that due to negligence of the deceased, the accident occurred and that the compensation claimed by petitioners is excessive.

5. Based on the pleadings, the Tribunal framed three issues. During enquiry, the first petitioner examined herself as P.W.1 and got marked Exs.A1 to A4. On behalf of respondents, no evidence was adduced and no document was marked.

6. After considering the entire evidence on record, the Tribunal awarded compensation of Rs.4,20,000/- as against the claim of Rs.3,00,000/- to petitioners payable by respondents 1 and 2 jointly and severally.

7. Heard learned Standing Counsel for appellants-APSRTC and learned counsel for respondents.

8. Learned Standing Counsel for appellants contended that though the petitioners have not produced any cogent evidence, the Tribunal awarded higher compensation.

9. P.W.1 is wife of the deceased and eyewitness to the accident. She stated that on the date of accident, herself and her husband were proceeding by walk towards Rallagudem to attend thrashing work and when they reached the turning of Rallagudem village, RTC bus came in a rash and negligent manner and dashed against her husband, due to which, he sustained grievous injuries and died on the spot as the bus ran over the deceased. She further stated that the deceased was aged about 30 years at the time of accident. She

categorically asserted that the accident took place due to rash and negligent driving of the driver of RTC bus and the same has been amply proved by producing the documents Exs.A1 to A4. As per Exs.A1 to A3, the accident occurred due to rash and negligent driving of the driver of bus. No oral or documentary evidence was produced by the Corporation to prove that the accident occurred due to negligence of the deceased, but not the driver of bus. In that view of the matter, the finding of the Tribunal that the accident took place due to rash and negligent driving of the driver of bus cannot be said to be erroneous warranting interference by this Court.

10. With regard to quantum of compensation, P.W.1 asserted that her husband was aged about 30 years and earning a sum of Rs.3,000/-per month as agricultural coolie at the time of accident. Upon considering the evidence of P.W.1 coupled with Exs.A1 to A4, the Tribunal took the monthly income of deceased at Rs.3,000/- and applied appropriate multiplier '17' for the age of deceased at 30 years at the time of accident and after deducting 1/3rd of his income towards personal expenses, awarded compensation of Rs.4,08,000/-. That apart, a sum of Rs.10,000/-towards loss of consortium and Rs.2,000/-towards transportation and funeral expenses was awarded. Thus, in all, a sum of Rs.4,20,000/- was awarded by Tribunal towards compensation to the petitioners.

11. Upon perusing the entire material on record, I see no reason to hold that the compensation awarded by Tribunal is excessive or exorbitant so as to interfere with the same. Hence, there are no

merits in the appeal warranting interference by this Court. The appeal is accordingly dismissed. No order as to costs. Miscellaneous petitions, if any, pending in this appeal shall stand dismissed.

M.S.K. JAISWAL, J.

8th June, 2017
sj

