

THE HON'BLE SRI JUSTICE M.S.K.JAI SWAL

MACMA No.1365 of 2010

JUDGMENT:

The present appeal is filed by the appellant Corporation against the orders of the learned Chairman, Motor Accidents Claims Tribunal-cum-V Additional District Judge, Warangal in M.V.O.P.No.207/2008, dated 22.02.2010, by and under which the Tribunal awarded a total compensation of Rs.7,43,096/- to the respondents/claimants 1 to 5, who are heirs of the deceased B.Ramulu, who admittedly died in an accident, involving the bus bearing registration No.AP10Z-5539, owned by the appellant Corporation on 12.02.2004.

The brief facts of the case of the claimants is that on 12.02.2004 at about 2.30 p.m. while the deceased was traveling in an Auto bearing registration No.AP36V-8919, on the outskirts of Lingala Ghanpur, the 1st respondent-driver of the APSRTC Bus bearing registration No.AP10Z-5539, drove the bus rashly and negligently and hit the auto, due to which, the deceased fell down from the auto and sustained multiple injuries and succumbed to injuries. The deceased was aged about 37 years, he was hale and health and working as a mason by the time of accident. Respondents 1 to 5 are wife, children and mother of the deceased.

On behalf of the claimants, PWs 1 to 4 were examined and Exs.A1 to A11 were marked. No oral or documentary evidence was adduced on behalf of the Corporation.

The Tribunal has taken into consideration the fact that the deceased was aged about 37 years and he was working as mason, and considering the evidence of PWs 3 and 4, the Tribunal has taken into

consideration the notional income of the deceased as Rs.3,821-50 ps per month and after applying the multiplier of '16', and after deducting 1/4th amount towards his personal expenses, the total compensation is determined at Rs.7,43,096/-.

The contention of the appellant-Corporation is that the Tribunal has not considered the evidence on record in proper perspective and erred in holding that the driver of the bus drove the bus rashly, negligently with high speed and hit the auto in which the deceased along with other passengers was traveling. It is further contended that the accident occurred due to negligence on the part of the deceased, as he was sitting in the front seat of the auto by protruding his legs outside the auto and fell down. There was no damage caused to the auto and there was no collusion and hence the Tribunal erred in awarding compensation fastening the liability on the driver of the RTC bus.

I have perused the evidence on record and also the impugned award. Admittedly, the deceased was young and healthy person, aged about 37 years and was maintaining family, consisting of wife, three children and old-aged mother. PW 1 is the wife of the deceased and PW 2 is the eyewitness. PW 2 categorically deposed that the accident occurred due to rash and negligent driving of the driver of the appellant Corporation. Absolutely no evidence is produced to disbelieve this evidence nor anything is elicited for discarding the testimony of the eyewitness.

PW 3 deposed that he used to pay Rs.3,750/- p.m to the deceased and PW 4 deposed that the deceased was earning Rs.6,250/- p.m by selling milk. It is also in their evidence that the deceased was having Ac.1.06½ gts of land. PW 1 stated that the deceased used to earn

Rs.3,750/- p.m as maistry and earning Rs.6,250/- p.m by selling 20 liters of milk everyday. Since there is no documentary proof of income, the Tribunal has taken the notional income of the deceased as Rs.3,821-50 ps as per G.O.Ms.No.69, dated 29.11.2000. The Tribunal followed the procedure in applying appropriate multiplier '16' and after deducting 1/4th amount, quantified the compensation at Rs.7,23,096/-. In addition, the Tribunal awarded Rs.10,000/- towards loss of consortium, Rs.5,000/- towards loss of love and affection and another Rs.5,000/- towards funeral expenses. In all, the Tribunal awarded compensation of Rs.7,43,096/- which cannot in any way be said to be excessive, exorbitant and erroneous. The finding of the Tribunal that the accident took place due to the acts of the driver of RTC Bus is based on proper appreciation of evidence on record which do not warrant interference.

Upon perusing the material on record, I see no reason to interfere with the award of compensation passed by the Tribunal.

The MACMA is accordingly dismissed. No order as to costs.

Date: 20.06.2017
Dsr

M.S.K.JAI SWAL,J