

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A.C.M.A. No.1520 of 2012

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 (for brevity "the Corporation"), challenging the Award and decree dated 24.12.2011 in O.P.No.232 of 2008 passed by the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge, Ranga Reddy District at L.B. Nagar, Hyderabad (for brevity "the Tribunal"), awarding compensation of Rs.7,56,968/- as against the claim of Rs.10,00,000/- laid by the respondents/petitioners under Section 166 of the Act, for the death of the deceased – K. Veeranna in a road accident that occurred at 7.30 p.m., on 01.05.2007 at Rajiv Chowk, Dilsukhnagar, Hyderabad.

The appellant is the Corporation, respondent No.1 is the first wife, respondent No.5 is the second wife and respondent Nos.2 to 4 are daughter and sons of the deceased – K. Veeranna, through the second wife. For the sake of convenience, the parties are referred to as they were arrayed in O.P.No.232 of 2008 before the Tribunal.

The brief facts of the case are that, on the fateful day i.e., on 01.05.2007 while the deceased – K. Veeranna and J.

Venkat Reddy were coming towards Chaitanyapuri from Shaikpet Mandal on Hero Honda Motor Cycle bearing No.AP 22-F-2284 and at about 7.15 p.m., when they reached near Rajiv Chowk, the Bus bearing No.AP 11Z 1321 belonging to the Corporation driven by its driver in a rash and negligent manner dashed against the motor cycle from its back, due to which the deceased – K. Veeranna and J. Venkat Reddy fell down and the bus wheel ran over the head of the deceased - K. Veeranna resulting in his death on the spot and Mr. J. Venkat Reddy received injuries. By the date of accident, the deceased – K. Veeranna was aged about 55 years and was working as Mandal Surveyor in Shaikpet Mandal and earning a sum of Rs.16,862/- per month. Therefore, the petitioners, who are the legal heirs of the deceased – K. Veeranna, have filed the above O.P. against the respondent – Corporation claiming compensation of Rs.10,00,000/- for the death of the deceased – K. Veeranna. The respondent – Corporation filed counter denying rash and negligent driving on the part of the driver of the bus and sought for dismissal of the claim petition. The Tribunal, on consideration of the evidence of the witness PW.1 and the documentary evidence under Exs.A.1 to A.7 adduced on behalf of the petitioners, awarded a compensation of Rs.7,56,968/- with interest at 7.5% per annum from the date of petition till the date of deposit of the amount into the Court. Aggrieved by the same, the appellant -

Corporation has preferred the present appeal seeking dismissal of the claim petition.

Heard Sri C. Sunil Kumar Reddy, learned Standing Counsel for the appellant – Corporation and Sri P. Laxman Rao, learned counsel for the respondents/petitioners. Perused the Award under challenge and also the evidence on record.

Learned Standing Counsel for the appellant – Corporation mainly contended that; firstly, there is a contributory negligence on the part of the rider of the motor cycle, which involved in the accident; and secondly, the Tribunal erred in taking the net salary of the deceased at Rs.11,562/- per month without taking into account the Statutory deductions. He would submit that the respondents/petitioners have not proved the income of the deceased – K. Veeranna by examining any witnesses, except relying on the documents Ex.A.6 – Pay particulars and Ex.A.7 – Family members Certificate issued by the Mandal Revenue Officer, Uppal.

On the other hand, learned counsel for the respondents/petitioners submits that the respondents/petitioners are able to prove that the deceased – K. Veeranna was working as a Mandal Surveyor and Ex.A.6 – Salary Certificate, which is a public document, was issued by the Tahsildar, Shaikpet Mandal, Hyderabad District, and unless

contra is proved, the genuineness and authenticity of the said Certificate cannot be doubted.

It is pertinent to note that in its Award, the Tribunal has categorically observed that Ex.A.6 is the Salary Certificate, which discloses the earnings, deductions and net salary of the deceased. Ex.A.6 issued by the Tahsildar, Uppal Mandal, under whom the deceased – K. Veeranna was working, would prove not only the occupation of the deceased that he was working as a Mandal Surveyor, but also his net salary as Rs.11,562/- per month by the date of his death. Therefore, the Tribunal has rightly observed that except suggesting that the document Ex.A.6 was a fake document, there is no other suggestion in the evidence of PW.1 to disbelieve the said document. A perusal of the testimony of PW.1 clearly reveals that except a bald suggestion that Exs.A.6 and A.7 are produced for the purpose of this case, nothing was brought on record to discredit the said certificates and even that suggestion was denied by PW.1 as false. Therefore, there are no valid grounds to interfere with the findings recorded by the Tribunal in taking the net income of the deceased as Rs.11,562/- per month.

Learned Standing Counsel for the appellant – Corporation further submits that the son of the deceased – K. Veeranna was appointed on compassionate grounds and, therefore, the respondents are not entitled to claim

compensation for the death of the deceased – K. Veeranna. The said submission cannot be accepted for the reason that it is not supported by any precedent or law that if any of the family members of the deceased was given appointment on compassionate grounds, the family of the deceased is not entitled for claiming compensation. It is to be seen that the Tribunal has awarded compensation on account of the death of the deceased on various counts. Therefore, there is no force in the said argument advanced by the learned Standing Counsel for the appellant – Corporation.

Learned Standing Counsel for the appellant – Corporation further submits that this is a case of contributory negligence on the part of the rider of the motor cycle involved in the accident, therefore, the liability is to be fastened both against the deceased and the driver of the appellant – Corporation.

In this regard, it is to be seen that except alleging that this is a case of contributory negligence, no evidence was brought on record and no witnesses were examined on its behalf by the appellant – Corporation to prove that the accident occurred due to the contributory negligence. The Tribunal has given categorical findings with regard to the nature of the accident relying on the testimony of PW.1 and Ex.A.1 – copy of FIR, stating that Ex.A.1 categorically shows that the accident occurred due to the rash and negligent

driving on the part of the driver of the RTC Bus bearing No.AP 11Z 1321 and after investigation, the police laid charge sheet against the driver of the said bus under Sections 304-A and 337 of IPC on the file of II Metropolitan Magistrate and Ex.A.3 is the inquest report which establishes that the accident occurred due to the rash and negligent driving of the said bus driver. Therefore, the Tribunal has rightly relied on the said documents and came to the conclusion that the accident occurred due to the rash and negligent driving by the driver of the RTC bus. It is also pertinent to note that Ex.A.1 – copy of FIR clearly reveals that the complaint was lodged by the rider of the motor cycle, who was an eye-witness to the accident. According to his statement, the offending bus came from rear side and dashed against their motor cycle, which clearly proves the rash and negligent driving on the part of the driver of the bus. Therefore, there are no valid and tenable grounds to interfere with the findings recorded by the Tribunal in awarding a compensation of Rs.7,56,968/- for the death of the deceased.

Accordingly, the Civil Miscellaneous Appeal is dismissed confirming the Award and decree dated 24.12.2011 passed by the Tribunal in O.P.No.232 of 2008. The appellant – Corporation is directed to deposit the entire amount of compensation within one month from the date of receipt of a copy of this judgment. On such deposit, the

respondents/petitioners are permitted to withdraw their share of compensation amount as apportioned by the Tribunal. No order as to costs.

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

GUDISEVA SHYAM PRASAD, J

12.04.2018.
Msr



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