

HON'BLE SRI JUSTICE G. SHYAM PRASAD

M.A.C.M.A. No. 2655 OF 2013

JUDGMENT:

This Appeal is arising out of the Award, dated 08.07.2013, passed in Motor Vehicle Original Petition No.600 of 2006 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-Principal District Judge, Adilabad (for short, 'the Tribunal').

2. The claimants are the legal representatives of the deceased Janardhan. They have filed the aforesaid claim petition under Sections 166 (1) (c) and 163-A of the Motor Vehicles Act, 1988 for compensation of Rs.12,00,000/- with interest @ 18% per annum on account of death of the deceased in a motor vehicle accident. Claimants are the wife, mother, and daughters of the deceased who are respondents No.1 to 4 respectively.

3. The brief facts of the case are that, on 30.01.2006 while the deceased was coming to Mancherial from Sarangapalli on his Hero Honda Splendar Motorcycle bearing No.AP-1-K-4757, and when he reached near Singareni Timber Yard, Mandamarri, at about 9:30 PM the APSRTC bus bearing No.AP-10-Z-8014 came in opposite direction and dashed the deceased. He sustained bleeding injuries and was immediately shifted to Government Hospital, Mancherial, where he succumbed to injuries. On the basis of the complaint, police registered a case in Crime No.22 of 2006, for the offence punishable under Section 304-A IPC, against the driver of the bus and, the police after completion of investigation filed charge sheet. The deceased was aged about 37 years at the time of accident. He was doing contract works of Electricity Department and earning Rs.10,000/-

per month. Due to his premature death, his legal heirs claimed compensation of Rs.12.00 lakhs.

4. The respondent filed counter denying the liability. It is alleged that the accident did not occur in the manner as stated. The petitioner has to prove the age, income and occupation of the deceased. They have also pleaded that petition is liable to be dismissed due to non-joinder of necessary parties in the claim petition.

5. On consideration of evidence, the Tribunal awarded compensation of Rs.7,77,500/- with interest @ 7.5% per annum. Aggrieved by the quantum of compensation, the APSRTC preferred this appeal.

6. Heard the arguments of Sri K.Srinivas Rao, learned counsel for the appellant and learned counsel for the respondents.

7. The points for consideration in this matter are:

- i) Whether the compensation awarded by the Tribunal is excessive or not?
- ii) Whether there is any contributory negligence on the part of the motorcyclist and driver of APSRTC or not?

8. **POINT Nos.1 and 2:**

Learned counsel for the appellant mainly contended that the compensation awarded by the Tribunal is excessive; that the Tribunal went wrong in taking the multiplier '15' while calculating compensation; that the accident occurred due to rash and negligent driving of rider of motorcyclist (deceased) and not because of the negligence on the part of the driver of the APSRTC bus; that there is contributory negligence on the part of drivers of both the vehicles;

and that the Tribunal has taken notional income of the deceased at Rs.6,000/- per month, instead of Rs.1,500/- per month.

9. Learned counsel for the claimants would submit that the Tribunal has awarded adequate compensation, basing on the evidence available on record; that the multiplier applied by the Tribunal is correct; that the income of the deceased taken by the Tribunal at Rs.6,000/- per month is correct.

10. The main contention of learned counsel for the appellant is that the driver of APSRTC bus was not negligent, in driving the bus. The criminal Court has acquitted the driver of the bus for the charge under Section 304-A IPC. The Tribunal did not place reliance on the contention raised by the appellant in this regard for the reason that the judgment of the criminal court is not placed before it. As a matter of fact, the judgment of the criminal Court is not binding on the Tribunal for taking a decision in respect of the rash and negligent act on the part of the driver of crime vehicle. The Tribunal can independently assess the liability of the driver of offending vehicle without looking into the criminal Court judgment.

11. It is contended that the driver of APSRTC bus was acquitted by the criminal Court. The judgment of the criminal Court has not been placed before the Tribunal. P.W.1 is wife of the deceased, and P.W.2 is an eyewitness to the incident. According to the testimony of P.W.2, while the deceased was proceeding on his Hero Honda Motorcycle, the APSRTC bus came in opposite direction and dashed the motorcycle of the deceased. P.W.2 attributed negligence to the driver of APSRTC bus. It is alleged that he had driven the vehicle in a rash and negligent manner. As against the evidence of P.W.2, the

Corporation got examined R.W.1, the driver of the bus. According to the testimony of R.W.1, he stopped the bus near Singareni Timber Yard of Mandamarri bus stage on the left side of the road margin and some passengers were getting down from the bus in order to attend their night duty. At that time one person came in opposite direction on Hero Honda motorcycle, lost control over the vehicle and dashed on the right side of the headlight, of the stationed bus, and fell down on the road. The version of R.W.1 is different from the version of P.W.2. P.W.2 is an eyewitness to the incident. He was present at the time of accident and witnessed the incident. R.W.1 is an interested witness as he was driver of the bus. No doubt, the criminal case might have ended in acquittal, but there is no material on record to show that whether it is an honourable acquittal or not. However, reliance can be placed on the testimony of P.W.1, than that of R.W.1, as he was present at the time of accident and witnessed the incident. Therefore, I do not see any valid ground to interfere with the findings of the Tribunal in fixing the liability on APSRTC.

12. Learned counsel for the appellant contended that the multiplier applied by the Tribunal for the age of deceased was '16' which is not in accordance with the multiplier approved in the case of **Sarla Verma Vs. Delhi Transport Corporation**¹ case. As per **Sarla Verma's** case, multiplier '15' can be taken in this case. The income of the deceased can be taken into consideration at Rs.6,000/- per month. Out of which, 1/3rd is to be deducted towards his personal expenses. After deducting 1/3rd, it comes to Rs.4000 (Rs.6000x 1/3) per month. If it is multiplied with multiplier '15', the respondents are entitled for compensation of Rs.4000 x 12 x 15 = Rs.7,20,000/-.

¹ (2009) 6 SCC 121

Except the application of multiplier '16', there is nothing wrong to interfere with the award passed by the Tribunal.

13. As a matter of fact, the Tribunal passed the award by awarding the meagre amounts for consortium and funeral expenses. Therefore, on consideration of all these facts, the application of multiplier, '15' by reducing the multiplier '16' adopted by the Tribunal does not make much difference, as the compensation awarded under other heads is very meagre. Therefore, I do not see any valid ground to interfere with the award passed by the Tribunal in any respect.

14. In the result, the Appeal is dismissed. Miscellaneous petitions, if any, pending in this appeal shall stand closed. No costs.



G. SHYAM PRASAD, J

MARCH,10 2017

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HON'BLE SRI JUSTICE G. SHYAM PRASAD



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Date: .02.2017

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