

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. M.P. No.487 OF 2016

IN/AND

CROSS-OBJECTIONS (SR) No.1526 OF 2016

IN/AND

M.A.C.M.A. No.1270 OF 2005

COMMON JUDGMENT:

1. This Appeal, under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), is preferred by the appellant-A.P.S.R.T.C., aggrieved by the order dated 24.01.2005 passed in O.P. No.33 of 2002, by the Chairman, Motor Accidents Claims Tribunal-cum-VI Additional District Judge (Fast Track Court), Anantapur at Gooty (for short, 'the Tribunal'); wherein the Tribunal awarded the compensation of Rs.2,00,000/-, with costs and subsequent interest at the rate of 9% p.a. from the date of petition till realization.

2. Heard the arguments of learned standing counsel for the appellant-A.P.S.R.T.C. and the learned counsel for the respondents-claimants and perused the record.

3. Learned standing counsel for the appellant would submit that the respondents have claimed an amount of Rs.2,00,000/- as compensation, the Tribunal has awarded the same without any justifiable grounds and ultimately prayed to set-aside the order under challenge.

4. On the other hand, learned counsel for the respondents would contend that there are no merits in the appeal, respondents are entitled for more than the compensation claimed and filed M.A.C.M.A. M.P. No.487 of 2016 seeking to condone the delay of 3,647 days in filing the Cross-objections (SR) No.1526 of 2016. The appellant herein has filed counter-

affidavit in M.A.C.M.A. M.P. No.487 of 2016 stating that there is a delay of more than ten (10) years, the day to day delay has not been properly explained and as such there are no justifiable grounds to allow the delay condonation petition and Cross- objections (SR) and prayed to dismiss the same.

5. To substantiate the contentions, the respondents-claimants had examined P.Ws.1 and 2 and got marked Exs.A-1 to A-3 on their behalf. On behalf of the appellant-respondent R.W.1, driver of the subject vehicle was examined but no documents were marked on its behalf.

6. There is ample evidence on record to believe that the death of I.J. Bhaskar (Hereinafter referred to as 'the deceased') was caused due to the rash and negligent driving of the driver of A.P.S.R.T.C. bus bearing No.AP-9-Z-8000. No other finding can be recorded on this score. Further while granting compensation, the Tribunal has taken the daily income of the deceased as Rs.50/-, monthly income as Rs.1,500/-, notional annual income as Rs.18,000/- and deducted 1/3rd towards his personal and living expenses and arrived at the net annual income of the deceased as Rs.12,000/- and applying the relevant multiplier arrived at a compensation of Rs.2,05,032/- towards loss of dependency, however, restricted the same to Rs.1,90,000/-. Further, awarded an amount of Rs.10,000/- to the 1st respondent herein, being wife of the deceased, towards loss of consortium. In all, the Tribunal has awarded the compensation claimed *i.e.*, Rs.2,00,000/- to the respondents herein. Under these circumstances, there is no infirmity in the impugned order.

7. Further, it is relevant to state that M.A.C.M.A. M.P. No.487 of 2016 is filed by the respondents-claimants seeking to condone the delay of 3,647 days in filing the Cross-objections (SR) No.1526 of 2016. No

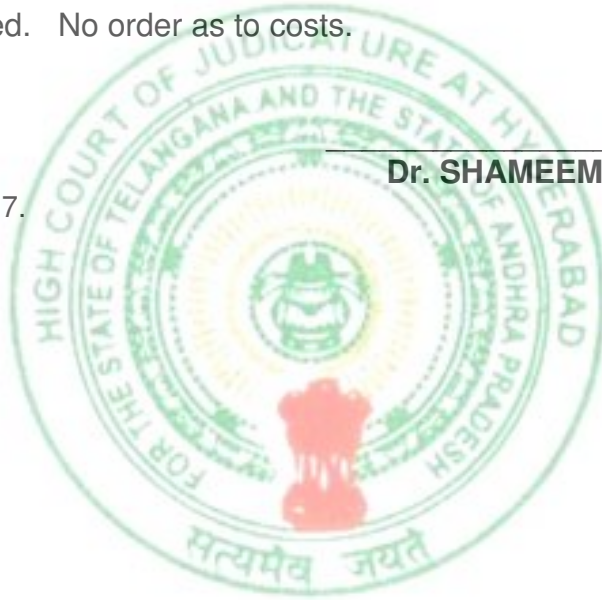
satisfactory explanation is given by the respondents why such huge delay occurred and also failed to explain the day to day's delay caused in filing the petition and as such M.A.C.M.A. M.P. No.487 of 2016 do not merit consideration. Accordingly, M.A.C.M.A. M.P. No.487 of 2016 is dismissed and Cross-objections (SR) No.1526 of 2016 stands rejected.

8. In the result, the Appeal is dismissed confirming the order dated 24.01.2005 passed in O.P. No.33 of 2002 by the learned VI Additional District Judge (Fast Track Court), Anantapur at Gooty.

9. As a sequel, pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

Date: 18.08.2017.
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Dr. SHAMEEM AKTHER, J



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Date. 18.08.2017

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