

HON'BLE SRI JUSTICE G. SHYAM PRASAD

M.A.C.M.A. No. 840 OF 2010

JUDGMENT:

1. This Appeal is arising out of the order, dated 29.12.2009, in M.V.O.P. No.284 of 2008, on the file the Chairman, Motor Vehicles Accidents Claims Tribunal-cum-III Additional District Judge, Tirupati (for short, 'the Tribunal').

2. Appellant herein is the 2nd respondent-insurance company, respondents 1 to 3 herein are petitioners, 4th respondent herein is owner and 5th respondent is the hirer of the Bus bearing No.AP 03W 7221. A Petition was filed by the petitioners before the Tribunal under Section 166(1)(c) of the Motor Vehicles Act, 1988 (for short, 'the Act') claiming compensation of Rs.5,00,000/- on account of death of their mother, Smt. K. Kathyayani (hereinafter referred to as 'the deceased'), in a motor vehicle accident occurred on 09.02.2008.

3. The brief facts of the petition are that, on 09.02.2008 at about 08:30 p.m., while the deceased got down from the crime vehicle and crossing the road at Karakambadi bus stop, the driver of the crime vehicle drove the bus in a rash and negligent manner without observing the deceased and, the right side front wheel of the crime vehicle, ran over the deceased and the deceased, while undergoing treatment in SVRRGG Hospital, Tirupati, succumbed to injuries at 10:30 p.m. A case in Crime No.15 of 2008 for the offences under Sections 304-A and 337 of I.P.C. was registered by S.H.O. Renigunta P.S. against the driver of the crime vehicle. Hence, the

petitioners filed Original Petition claiming compensation of Rs.5,00,000/- against the respondents 1 to 3.

4. Respondents 1 to 3 filed separate counters denying the claim of the petitioners.

5. The Tribunal, after framing the issues and, on consideration of the pleadings and evidence of the witnesses PWs.1 and 2 and R.W.1 and the documents Exs.A-1 to A-4 and Ex.B-1, passed the order granting compensation of Rs.3,79,776/- with proportionate costs and interest at the rate of 6% p.a. from the date of petition till realization, making all the respondents jointly and severally liable to pay the same.

6. Being aggrieved, 2nd respondent-insurance company preferred the instant Appeal seeking to set-aside the order as the compensation awarded by the Tribunal is highly excessive and exorbitant.

7. Heard Mr. Kota Subba Rao, learned standing counsel for the appellant-insurance company and Mr. P. Govind Reddy, learned counsel for the respondents-petitioners. None entered appearance on behalf of 4th respondent-owner of the Bus.

8. The point that arises for consideration in this matter is:

Whether the order passed by the Tribunal is in accordance with law? If not, liable to be set-aside?

9. Learned counsel for the appellant fairly submitted that, at the time of filing the Appeal they have taken a ground that there is no

liability for the insurance company as the crime vehicle was hired by A.P.S.R.T.C. During arguments, learned counsel fairly conceded that as per the law laid down by the Apex Court in *Managing Director, K.S.R.T.C. and others Vs. New India Assurance Company Limited and others*¹, the registered owner, insurance company and the A.P.S.R.T.C. are equally liable to pay the compensation to the claimants; the said plea was available at the time of filing the Appeal. Due to subsequent change in legal position, the said plea was no longer available to them. Hence, learned counsel conceded to that extent, there is no need to interfere with the impugned order passed by the Tribunal.

10. It is further submitted that the petitioners 1 and 2, being major sons, and 3rd petitioner, being married daughter of the deceased, are not dependants on the income of the deceased and, therefore, they are not entitled to claim any compensation.

11. Lastly it is submitted that the compensation awarded by the Tribunal is excessive, therefore, sought for setting-aside the impugned order of the Tribunal.

12. *Per contra*, Learned counsel for the respondents-petitioners contended that in view of the principle laid down by the Full Bench of this Court in *Gangaraju Sowmini and others Vs. Alavala Sudhakar Reddy and others*², even the major sons and married daughter, who are the only legal heirs of the deceased, are entitled to claim

¹ 2016 (2) SCC 382

² 2016 (2) ALD 226

compensation, provided the compensation should be just and reasonable one.

13. Learned counsel for the respondents-petitioners further placing reliance on a decision of the Apex Court in *Arun Kumar Agrawal and another Vs. National Insurance Company Limited and others*³, contends that this is a case of death of mother of the petitioners. The petitioners being sons and daughter of the deceased are deprived of the love and affection of their mother and her advices throughout their life, due to her untimely death at the age of 52 years. Placing reliance on the above decision, it is contended that the compensation awarded by the Tribunal was in accordance with law and it does not require any interference by this Court.

14. Admittedly, the petitioners, being the major sons and married daughter, who are the only legal heirs of the deceased, are not dependants of the deceased. On consideration of the facts and circumstances of the case, and in view of the principles laid down by the Apex Court and this Court, in the decisions referred *supra*, it can safely be concluded that the Tribunal has properly appreciated the evidence on record and awarded reasonable compensation to the petitioners, and there is no need to interfere with the well reasoned order passed by the Tribunal.

15. Hence, the Appeal fails and is, accordingly, dismissed.

³ AIR 2010 SC 3426 (1)

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

G. SHYAM PRASAD, J

Date: 19.01.2017.
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