

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.600 OF 2008

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the appellant-Union of India aggrieved by the order dated 28.09.2007 in O.P.No.565 of 2004 on the file of the Motor Accident Claims Tribunal-cum-Principal District Judge, East Godavari District, Rajahmundry (for short 'the Tribunal').

2. Heard the learned Assistant Solicitor General for appellant-Union of India, the learned counsel for respondents-claimants and perused the record.

3. Learned counsel for the appellant-Union of India would contend that the Tribunal had not taken the correct salary of the deceased and erroneously determined the compensation at Rs.8,31,500/-. Further, the Tribunal had not properly dealt with the aspect of rashness and negligence on the part of the driver of school bus bearing No.88D 79755 Y-4 Ton TATA and ultimately prayed to set aside the impugned order.

4. On the other hand, learned counsel for the respondents-claimants would contend that there are five dependants on the deceased. The Tribunal deducted 1/3rd towards personal expenses of the deceased. There are Exs.A4 and A5, salary particulars of the deceased. The age of the deceased was mentioned in the criminal case record. The grant of compensation of Rs.8,31,500/- is not excessive and ultimately prayed to dismiss the appeal.

5. In view of the submissions made by both sides, the points that arise for determination are as follows:-

1. Whether the deceased-Mungamuri Uma Shankar died due to the rash and negligent driving of the driver of school bus bearing No.88D 79755 Y 4 Ton TATA?
2. Whether the Tribunal justified in granting compensation of Rs.8,31,500/-?

6. The Tribunal placed reliance on the evidence of P.Ws.1 and 2 and the documents marked as Ex.A1-copy of FIR, Ex.A2-postmortem report and Ex.A3-charge sheet. The entire criminal case record is against the driver of the school bus bearing No.88D 79755 Y-4 Ton TATA. There is also evidence of P.W.2-eye witness with regard to the rashness and negligence on the part of the driver of the said bus. R.W.1 deposed the salary details of the deceased. So, there is no iota of evidence from the side of the appellant to disbelieve the accident and also the involvement of the school bus bearing No.88D 79755 Y-4 Ton TATA in the said accident. On the other hand, there is ample evidence on record to hold that the accident occurred and death of deceased was caused due to the rash and negligent driving of the driver of school bus bearing No.88D 79755 Y-4 Ton TATA. There is nothing to take a different view.

7. While dealing with the subject matter of the claim, the Tribunal had relied on Ex.A4 and Ex.A5. Basing on that, it concluded that the income of the deceased is Rs.6,000/- per month. R.W.1 also spoke about the said salary of the deceased. As per the evidence, the deceased was working as driver (Naik Grade) 13887080 X, NK/MT 554/ASC Battalion, C/o.56 A PO, Trimulgherry, Secunderabad and was 33 years old on the date of occurrence of the subject accident. Having taken the monthly income of the deceased as Rs.6,000/-, the Tribunal deducted 1/3rd towards his personal expenses, applied multiplier '17'

and assessed Rs.8,16,000/- as contribution to his family. The Tribunal also assessed Rs.15,000/- towards loss of estate, Rs.500/- towards transportation. In all, the Tribunal granted compensation of Rs.8,31,500/-. For the death of a person of 33 years age, who was working as a driver, granting the said amount as compensation is not excessive. Therefore, viewed from any angle, there are no merits in the appeal.

8. In the result, the appeal is dismissed.

The Miscellaneous Petitions, if any, pending shall stand closed.

No costs.

Date: 21.08.2018
ssp

Dr. SHAMEEM AKTHER, J

