

THE HON'BLE MS. JUSTICE J. UMA DEVI

M.A.C.M.A.No.340 of 2010

JUDGMENT:

1. Having been aggrieved by the order dated 16.03.2009 passed in O.P.No.397 of 2008 on the file of the Motor Accidents Claims Tribunal-cum-V Additional District Judge (FTC), Anantapur, the present appeal is filed by the A.P.S.R.T.C., which has been arrayed as respondent in the aforementioned O.P.

2. The facts of the case are briefly stated as under:

The legal representatives of the deceased P.V.Sankar Prasad, who died in the motor accident dated 12.03.2008 at about 9.00 A.M. near RTC bus stop at Sangamesh Circle, Anantapur town, laid a claim against the APSRTC for compensation of Rs.3,00,000/-. It is asserted by them in their claim petition that on 12.03.2008 at about 9.00 A.M. the deceased went to Sangamesh Circle bus stop at Anantapur town in order to go to Dharmavaram on his personal work and while he was boarding an APSRTC bus bearing No.AP-11-Z-3541, the Conductor of the bus without taking any precaution gave signal to the driver to move the bus and accordingly the driver of the bus moved the bus and as a result of it, the deceased fell under the rear wheels of the bus, received grievous injury on his head and died on the spot. On the intimation given to the Traffic Police at Anantapur, a case in Crime No.13 of 2008 under Section 304-A I.P.C. was registered against the driver of the APSRTC bus bearing No.AP-11-Z-3541. It is also asserted in their claim petition that the deceased

was hale and healthy prior to the accident and that he was aged 45 years at the time of his death. The deceased was working as a Carpenter and was earning Rs.4,000/- per month and all the claimants were entirely depending upon the income of the deceased and they had no other source of income. Therefore, they laid the claim against the APSRTC for compensation of Rs.3,00,000/-.

3. The Tribunal on appreciation of evidence of P.Ws.1 and 2, who were the wife and sister of the deceased, and Exs.A1 to A9, awarded compensation of Rs.2,80,000/-. Having been aggrieved by the compensation so awarded, the appellant-APSRTC came before this Court by preferring the present appeal.

4. I have perused the order impugned in this appeal and also the evidence available in the case record.

5. The fact that a case in Crime No.13 of 2008 was registered by the Traffic Police, Anantapur, against the driver and the Conductor of the APSRTC bus bearing No.AP-11-Z-3541 was not disputed by the appellant herein. P.W.1 is the wife of the deceased and she is not the eyewitness to the accident in which the deceased died. P.W.2, the sister of the deceased, is eye witness to the accident. In her evidence, she has deposed that the accident occurred due to rash and negligent act of the driver of the offending bus. It is evident from the material on record that no witness was examined by the appellant-APSRTC to disprove the evidence of P.W.2. Further, no steps were taken by the appellant to examine the driver

or conductor of the offending bus to disprove the evidence of P.W.2. Since the evidence of P.W.2, who gave complaint to the police, clinchingly establishes negligence on the part of the driver of the APSRTC bus, the Tribunal relying on her oral testimony, which is corroborated by Exs.A1 to A3, has rightly held that the accident occurred due to rash and negligent act of the driver of the APSRTC bus bearing No.AP-11-Z-3541.

6. Coming to the correctness or otherwise of the award passed by the Tribunal is concerned, the Tribunal on appreciation of the evidence of P.W.1, the wife of the deceased, assessed the income of the deceased approximately at Rs.70/- to Rs.80/- per day i.e., Rs.2,250/- per month. P.Ws.1 and 2 though deposed that the deceased was working as a carpenter and was earning Rs.4,000/- per month, they have not produced any documentary proof establishing the income of the deceased. In the absence of any evidence regarding exact income of the deceased, the Tribunal on considering that the deceased as an unskilled labourer, assessed the monthly income of the deceased at Rs.2,250/-. The assessment of the income of the deceased at Rs.2,250/- per month made by the Tribunal, in my view, is just and reasonable. The Tribunal, after considering the evidence of P.W.1 and Exs.A2-Inquest report and Ex.A3-Post Mortem certificate, held that the deceased was 45 years at the time of accident. On deducting 1/3rd income of the deceased towards his personal expenditure, the Tribunal assessed the income

contribution of the deceased to his family at Rs.1500/- per month and Rs.18,000/- per annum. By applying an appropriate multiplier of '15', the Tribunal rightly assessed the loss of income contribution of the deceased to his family at Rs.2,70,000/- (Rs.18,000/- x 15). The Tribunal had rightly awarded a sum of Rs.5,000/- under the head of loss of consortium to the 1st claimant (P.W.1); Rs.2,000/- under the head of funeral expenses and Rs.2,500/- under the head of loss of estate. Thus, a total sum of Rs.2,80,000/- was awarded by the Tribunal towards compensation to the respondents herein. The amount of compensation of Rs.2,80,000/- awarded by the Tribunal appears to be reasonable and the same, in my view, needs no intervention.

7. In the light of the aforementioned discussion, the appeal is dismissed and the order of the Tribunal passed in O.P.No.397 of 2008 on the file of the Motor Accidents Claims Tribunal-cum-V Additional District Judge, Anantapur, is hereby confirmed.

8. Miscellaneous applications, if any pending in this appeal, shall stand closed. There shall be no order as to costs.

JUSTICE J. UMA DEVI

26.06.2018
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