

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.NO.1548 OF 2011
AND
M.A.C.M.A.NO.1271 OF 2015

COMMON JUDGMENT:-

As both appeals arise out of an award passed by the Chairman, Motor Accident Claims Tribunal-cum-Principal District Judge, Kadapa arising out of a same incident in M.V.O.P.No.592 of 2008, these appeals are disposed of by a common judgment.

2. M.A.C.M.A.No.1548 of 2011 is filed by the APSRTC and M.A.C.M.A.No.1271 of 2015 is filed by the claimants.

3. The claim of the claimants/petitioners, who are parents of the deceased-k.Om Sekhar Reddy, who died in a motor vehicle accident, is that on 29-10-2007 when the deceased along with one B.Madhusudhan Reddy were traveling in a motor cycle bearing No.AP02 TR/R-7266 and when reached near Kotla Javaramireddy garden, the offending vehicle i.e., Bus bearing No.AP10-Z-7266 being driven by its driver in a rash and negligent manner and dashed the motor cycle, as a result of which deceased along with said Madhusudhan Reddy fell down and succumbed to injuries. The claimants who are parents of the deceased filed the O.P and contended that they sustained loss of income due to the death of the deceased and prayed the court to grant compensation of Rs.5 lakhs.

4. The respondent/APSRTC filed a counter denying the allegation and contended that the accident occurred not due to

the act of the driver of the bus, but due to the own fault of the deceased.

5. On behalf of the claimants, PWs.1 to 3 were examined and Exs.A-1 to A-6 were marked. On behalf of the respondent RW.1 was examined and no documents got marked.

6. After considering the oral and documentary evidence, the Tribunal held that the accident occurred due to the rash and negligent driving of the driver of the offending vehicle and awarded compensation of Rs.4,30,000/- in all counts in stead of Rs.5 lakhs as claimed by the claimants.

7. Being not satisfied by the award passed by the Tribunal, both claimants and RTC preferred the present appeals.

8. The learned counsel for the claimants argued that the deceased was aged about 22 years and he is the only son of the claimants and due to his sudden death, they lost their dependency. It is also argued that Tribunal granted meager compensation and prayed the Court to enhance the compensation.

9. On the other hand, the learned counsel for the respondent argued that the compensation awarded the Tribunal is just and reasonable and the findings of the Tribunal need no interference and prayed the Court to dismiss the appeal.

10. Having regard to the submissions made by the learned counsel for both the parties, the only point that arises for consideration by this court is:-

Whether the compensation awarded by the Tribunal is just and reasonable and whether the claimants are entitled for enhancement of compensation?

11. POINT:-

A perusal of the record shows that after considering the evidence of PWs.1 to 3, the Tribunal rightly held that the accident occurred due to rash and negligent driving of the driver of the offending vehicle and that the finding of the Tribunal needs no interference.

12. In so far as the multiplier is concerned, the Tribunal ought to have applied multiplier "16" instead of "14" keeping in view the age of the deceased. Coming to the aspect of income of the deceased is concerned, the Tribunal had taken an amount of Rs.3000/- per month towards the average contribution towards the welfare of the claimants. As can be seen from the evidence of PW.3, who is working as a worker in the electrical shop, it is crystal clear that the deceased was earning an amount of Rs.10,000/- per month and after deducting his personal expenses, it can safely presume that his contribution to his parents would be around Rs.4000/- in stead of Rs.3000/- as held by the Tribunal. Therefore, if multiplier "16" is applied, the loss of dependency comes to $\text{Rs.4000/-} \times 12 \times 16 = \text{Rs.7,68,000/-}$.

13. Thus, the total compensation payable to the claimants is Rs.7,78,000/- [Rs.7,68,000/- + Rs.5,000/- + Rs.5,000/-].

14. It is settled law that irrespective of the amount claimed by the claimants, the Courts may award compensation which appears to be just and reasonable in the facts and circumstances of the case. Since the compensation now awarded is more than the compensation claimed by the claimants, the claimants are directed to pay the deficit court fee before obtaining a decree.

15. Accordingly, the compensation awarded by the Tribunal is enhanced from Rs.4,20,000/- to Rs.7,78,000/- . As far as the rate of interest is concerned, in view of the different rate of interests granted by the Hon'ble Apex Court in a catena of judgments, I am of the opinion that an interest at 7.5% per annum shall be awarded in stead of @6% as awarded by the Tribunal.

In the result the appeal filed by the RTC (M.A.C.M.A.No.1548 of 2011) is dismissed and appeal (M.A.C.M.A.No.1271 of 2015) filed by the claimants is allowed in part to the extent indicated above. No order as to costs. Miscellaneous Petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 16-11-2018.
TSNR