

THE HON'BLE MS. JUSTICE J. UMA DEVI

M.A.C.M.A.No.1602 of 2010

JUDGMENT:

1. Having been aggrieved by the order dated 12.01.2010 passed in O.P.No.453 of 2001 on the file of the Motor Accidents Claims Tribunal-cum-I Additional District Judge, Nizamabad, the present appeal is filed by the A.P.S.R.T.C., which has been arrayed as respondents in the aforementioned O.P.

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

The legal representatives of the deceased Kanthi Gangamma, who died in the motor accident that occurred on 25.08.2000 near Gundaram crossing at Jannepally road, laid a claim against the APSRTC for compensation of Rs.6,00,000/-. It was asserted by them in their claim petition that on 25.08.2000 while the deceased was proceeding in the Auto-rickshaw bearing No.ABT-2138 from Gundaram village, when the Auto reached near Gundaram crossing at Jannepally road, an APSRTC bus bearing No.AP-9Z-8789 driven by its driver came from Nizamabad side with high speed in its opposite direction and dashed it, and as a result of it, the deceased and five others who were traveling in the Auto-rickshaw fell down and the deceased died on the spot. It was also asserted by them that the deceased was aged about 35 years by the date of her death and she was earning Rs.15,000/- per month by doing coolie work. Since they lost her love and affection and also

earnings, they laid the claim against the APSRTC for compensation of Rs.6,00,000/- in respect of her death.

3. The Tribunal on appreciation of evidence of P.Ws.1 and 2 and Exs.A1 to A11, awarded compensation of Rs.3,89,000/-. Being aggrieved by the compensation so awarded, the appellants-APSRTC came before this Court by preferring the present appeal.

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

5. P.W.2-Shaik Azar is the eyewitness to the accident in which the deceased died. In his evidence, he deposed that the accident occurred due to rash and negligent act of the driver of the APSRTC bus bearing No.AP-9Z-8789. 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 are taken by the appellants to examine the driver of the offending bus to disprove the evidence of P.W.2. Since the evidence of P.W.2 clinchingly establishes negligence on the part of the driver of the APSRTC bus, the Tribunal relying on his oral testimony, which is corroborated by Exs.A1, A2 and A6, has rightly held that the accident, which resulted in instantaneous death of the deceased, occurred due to rash and negligent driving of the APSRTC bus bearing No.AP-9Z-8789 by its driver.

6. Coming to the correctness or otherwise of the compensation awarded is concerned, the Tribunal, taking note of the

contents of Ex.A9-Pay Slip showing the contribution of the deceased towards Provident Fund Scheme and Ex.A10-letter of appointment wherein it was stated that the deceased was appointed as a Beedi Roller by M/s Heeralal and Company, assessed the monthly income of the deceased at Rs.3,000/-. On deducting 1/3rd income of the deceased towards her personal expenditure, the Tribunal assessed the income contribution of the deceased to her family at Rs.2,000/- per month and Rs.24,000/- per annum. The Tribunal, taking note of the contents of Ex.A3- Post Mortem certificate and Ex.A11-Inquest report, wherein the age of the deceased was mentioned as 35 years, applied the multiplier of '16'. Thus, the Tribunal rightly assessed the loss of income contribution of the deceased to her family at Rs.3,84,000/- (Rs.24,000/- x 16). The Tribunal had rightly awarded a sum of Rs.5,000/- under the head of funeral expenses. Thus, a total sum of Rs.3,89,000/- was awarded by the Tribunal towards compensation to the respondents herein i.e., claimants in O.P.No.453 of 2001.

7. The amount of compensation of Rs.3,89,000/- awarded by the Tribunal appears to be reasonable. Therefore, I am of the view that the award under challenge where determination of compensation is made at Rs.3,89,000/- needs no modification.

8. Since the Tribunal seems to have awarded interest at 9% Per Annum on the compensation amount of Rs.3,89,000/-, the same

is reduced to 7.5% Per Annum as it is opined that interest so awarded is on higher side.

9. Accordingly, the Civil Miscellaneous Appeal is allowed in part to the extent of reduction of rate of interest from 9% to 7.5% Per Annum and in other respects, the award passed by the Tribunal is confirmed.

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

01.08.2018
Gsn



JUSTICE J. UMA DEVI