

THE HON'BLE MS. JUSTICE J. UMA DEVI

MACMA NO. 1569 of 2008

JUDGMENT:

Having been aggrieved by the award dated 28.4.2007 passed in MVOP No. 378 of 2005 on the file of the Motor Vehicle Accident Claim Tribunal-cum-XXI-Addl. Chief Judge, Red Hills, Hyderabad (for short "the Tribunal"), the present appeal is filed by the Andhra Pradesh State Road Transport Corporation (APSRTC).

The parties will hereinafter be referred as 'petitioner' and 'respondents' as they are arrayed in the aforementioned OP.

The petitioners in the aforementioned OP are the wife and daughters of the deceased M. Satyanarayana who died in a motor vehicle accident dated 22.8.2003. They laid the claim as against the APSRTC regarding the death of the deceased M. Satyanarayana asserting that on 22.8.2003 at about 8.00 A.M. while they were proceeding from Hyderabad to Mancherla in a Maruthi car bearing No. AP 9 G 2023 driven by the deceased M. Satyanarayana, when they reached the outskirts of Turkapalli village, an RTC bus bearing No. AP-10-Z-5048 came in a rash and negligent manner on a wrong side and dashed the car driven by the deceased slowly on the left side of the road, and as the result of it, the deceased M. Satyanarayana died on the spot and they received grievous injuries. Police of Shamirpet registered a case in Cr.No. 91 of 2003 under Sections 304-A, 337 and 338 IPC against the driver of the offending RTC bus. The petitioners further asserted that the

petitioners 2 and 3 who were unmarried daughters of the deceased and the petitioner No.1 who was the wife of the deceased, lost the love and support of the deceased due to his sudden demise in the accident dated 22.8.2003. It was also asserted by the petitioners that the deceased was aged 52 years by the date of the accident and was working as Motor Vehicle Inspector in Transport Department and was drawing a monthly salary of Rs.16,373/- and was spending his entire income towards their maintenance. With the above averments, they filed the claim petition as against the APSRTC for a sum of Rs.12.00 lakhs in respect of death of the deceased M. Satyanarayana.

The petitioners, in proof of their claim, examined PWs 1 and 2 and marked Exs.A1 to A10. The Tribunal, on appreciation of the oral and documentary evidence, came to the conclusion that the petitioners are entitled to get compensation of Rs.14,64,400/-, but awarded compensation of Rs.12.00 lakhs taking into consideration of the claim made by them. Having been aggrieved by the award passed by the Tribunal granting compensation of Rs.12.00 lakhs to the petitioners in OP No. 378 of 2005, APSRTC has come up with the present appeal.

The contention of the appellants-APSRTC is that the Tribunal, without proper appreciation of the evidence on record, came to the conclusion that the driver of the RTC bus bearing No. AP-10-Z-5048 was at fault, though no independent evidence is adduced by the petitioners to prove the negligence on the part of the driver of the RTC bus, the Tribunal placing reliance on the oral testimony of PWs 1 and 2 has come

to the conclusion that the accident occurred only on account of the rash and negligent driving of the RTC bus bearing No. AP-10-Z-5048 by its driver. The appellants' further contention is that though Ex.A9, the last pay certificate was not proved by the petitioners by examining the authority who issued it, the Tribunal came to the opinion that the petitioners are entitled to get the amount claimed by them towards compensation. The other contention of the appellants is that the multiplier '11' applied by the Tribunal is also contrary to the decision reported in *Bhagwandas Vs. Mohd. Arif*¹. Urging the aforementioned contentions, the APSRTC has sought the indulgence of this Court and to pass an appropriate order by setting aside the award passed by the Tribunal in OP No. 378 of 2005, which according to it, is passed by wrongly assessing the income of the deceased.

I have gone through the award passed by the Tribunal in OP No. 378 of 2005 which is impugned in this appeal, and also the oral and documentary evidence available in the case record.

The petitioners having asserted that the accident occurred due to the negligent driving of the RTC bus bearing No. AP-10-Z-5048 by its driver, got examined PWs 1 and 2, the wife and daughter of the deceased M. Satyanrayana who were very much available along with the deceased M. Satyanarayana in the Car bearing No. AP-9-G-2023 which was hit by the RTC bus which came in their opposite direction in a rash and negligent manner when the car reached the outskirts of Turkapalli village.

¹ 1987 (2) ALT 137

The Tribunal, relying on the evidence of PWs 1 and 2, who witnessed the accident and Exs.A1 to A7, came to the opinion that the driver of the RTC bus bearing No. AP-10-Z-5048 was responsible for the death of the deceased M. Satyanarayana. The appellants in support of their plea that the driver of the RTC bus was not at fault, did not choose to examine the driver of the RTC bus as a witness. The Tribunal, relying on the evidence of PWs 1 and 2 whose evidence was corroborated on all aspects with evidence of each of them and the supporting documentary evidence produced by them, came to the conclusion that due to the negligent driving of the RTC bus bearing No. AP-10-Z-5048 by its driver, instantaneous death of the deceased M. Satyanarayana occurred.

The petitioners produced the death certificate of the deceased-Ex.A7 and also his date of birth certificate-Ex.A8. Relying on Ex.A9-last pay certificate of the deceased, the Tribunal though came to the conclusion that the petitioners are entitled to get compensation of Rs.14,64,400/-, it awarded compensation of Rs.12.00 lakhs as the petitioners laid the claim as against the APSRTC for a sum of Rs.12.00 lakhs. The Tribunal cannot be faulted for applying a multiplier '11' as the documentary evidence produced by the petitioners discloses that the deceased was aged 52 years by the date of his death. On appreciation of entire evidence on record, the Tribunal has passed a reasoned order awarding compensation of Rs.12.00 lakhs. The same, in my view, is not suffering from any patent illegality. Therefore, the appeal filed by the APSRTC fails and the same is hereby dismissed.

In the result, the appeal is dismissed confirming the award passed by the Tribunal in OP No. 378 of 2005. Miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

Dt. 6.4.2018
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JUSTICE J. UMA DEVI

