

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.Nos.1536 of 2006 & 3433 of 2008

COMMON JUDGMENT:-

Since the facts of the case, the issues involved, the parties and the Award under challenge in both these appeals are one and the same, both these appeals are being disposed of by this common judgment.

2. Challenging the award dated 21.11.2005 passed in O.P.No.1287 of 2002 by the Chairman, Principal Motor Accident Claims Tribunal-cum-Principal District Judge, Nalgonda ('the Tribunal', for brevity), the claimants preferred M.A.C.M.A.No.1536 of 2006 seeking enhancement of compensation and the APSRTC preferred M.A.C.M.A.No.3433 of 2008 seeking to set aside the impugned Award.

3. Heard the learned counsel for both sides and perused the record. For convenience, the parties are hereinafter referred to as per their array before the Tribunal.

4. The learned counsel for the appellants in MACMA No.1536 of 2006 and the respondents 1 to 5 in MACMA No.3433 of 2008 (claimants) would contend that the Tribunal granted a meagre compensation of Rs.2,89,331/- as against a claim of Rs.12,00,000/-. The Tribunal deducted 1/3rd of the income of the deceased towards his personal expenses though there are five dependants of the deceased. There is evidence of P.W.2 to show rashness and negligence on the part of the driver of the

APSRTC bus bearing registration No.AP-09-Z-8656. The Tribunal had not applied appropriate multiplier applicable to the age of the deceased and had not considered the future hike in the salary of the deceased. The Tribunal, though assessed the compensation payable to the claimants as Rs.5,66,661/-, awarded only Rs.2,89,331/- as compensation, by erroneously holding that there was contributory negligence in the occurrence of the subject accident and ultimately prayed to enhance the compensation as claimed.

5. On the other hand, the learned Standing Counsel for the APSRTC representing the appellant in MACMA No.3433 of 2008 and 1st respondent in MACMA No.1536 of 2006 would submit that there was no rashness or negligence on the part of R.W.1 (driver of the APSRTC bus) in occurrence of the subject accident. The criminal case record is against the deceased. Under these circumstances, the Tribunal ought not have granted any compensation against APSRTC and ultimately prayed to set aside the impugned order.

6. In view of the above rival contentions, the points that arise for consideration in both these appeals are as follows:-

1. Whether the finding of the Tribunal that there was contributory negligence in the occurrence of the subject accident is liable to be set aside?
2. Whether the claimants are entitled for enhancement of compensation as claimed.

7. As per the evidence on record, the deceased-Solipuram Ranjith Reddy was proceeding by his scooter bearing registration No.AP-24-A-4425 on the date of accident. When he reached the

outskirts of Valigonda village, a bus belonging to APSRTC bearing registration No.AP-09-Z-8656 came in the opposite direction and dashed against the deceased, as a result of which, the deceased died on the spot. Ex.A.1-Certified copy of the FIR in Crime No.31/2003 of P.S. Valigonda, Ex.A.2-Certified copy of the Inquest and Ex.A.3-Certified copy of charge-sheet reveal that there was rashness and negligence on the part of the deceased in driving the vehicle. There is also specific evidence of R.W.1 (driver of the APSRTC bus) with regard to the occurrence of the subject accident due to rash and negligent driving of the deceased.

8. On behalf of the claimants, one Lakka Nagaiah was examined as P.W.2. He deposed that he was travelling in the APSRTC bus bearing registration No.AP-09-Z-8656 at the time of subject accident, to go to Yadagirigutta. His evidence is that the subject accident occurred due to rash and negligent driving of the driver of the APSRTC bus. Though he deposed that he was examined by the police with regard to the occurrence of the subject accident, no document is filed to prove the same. The investigation conducted by the police cannot be faulted. Considering the evidence of P.W.2 and the evidence of R.W.1, the Tribunal held that the accident occurred due to rash and negligent driving on the part of the deceased as well as the driver of the APSRTC bus, assessed the compensation and directed the APSRTC to pay half of the same. The findings of the Tribunal are based on the evidence on record. There is nothing to take a different view.

9. As far as the quantum of compensation is concerned, the Tribunal, after analysing the entire evidence on record by taking all the relevant factors into consideration, granted just and reasonable amount as compensation. There are no circumstances to vary the same. Both the appeals are devoid of merit and are liable to be dismissed.

10. In the result, both the appeals are dismissed. No costs.

Miscellaneous petitions, if any, pending in both these appeals, stand closed.

23rd July, 2018
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Dr. SHAMEEM AKTHER, J

