

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3431 OF 2005

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the appellants-APSRTC (now 'TSRTC') aggrieved by the order dated 21.06.2005 in O.P.No.683 of 2002 on the file of the Motor Accident Claims Tribunal-cum-District Judge, Nizamabad (for short 'the Tribunal').

2. Heard the learned counsel for appellants-RTC and perused the record.

3. There is no representation for respondent No.2-claimant. The appeal against respondent Nos.1, 3 and 4 was dismissed for default on 06.01.2012. This appeal pertains to the year 2005. Hence, it can be disposed of on merits basing on the material available on record.

4. Learned counsel for the appellants-RTC would contend that the Tribunal had granted excess compensation. The deceased, who was cyclist, was responsible for the occurrence of accident. The accident occurred due to the head on collision between the cycle and the RTC bus. There is specific evidence of R.W.1 with regard to the rashness and negligence on the part of the deceased. The Tribunal had not considered the same. The Tribunal without adverting to the age and income of the deceased had granted excess compensation and ultimately, prayed to set aside the impugned order.

5. P.W.2 clearly and categorically deposed about the rash and negligent driving on the part of the driver of the RTC bus bearing

No.AP 9Z 5238 in causing the subject accident on 28.04.2001 resulting in death of the deceased Bombay Mahaboob Sab. It was not shaken in the cross-examination. The Tribunal relied on his evidence and also the documents i.e., Ex.A1-FIR and Ex.A2-charge sheet, held that the deceased died due to the rash and negligent driving of the driver of the said RTC bus on 28.04.2001. R.W.1 is a highly interested witness. It is not safe to act on his testimony. P.W.2 is an independent witness. Hence, from the evidence of P.W.2 coupled with the investigation conducted by the police, it can safely be concluded that the accident occurred and the death caused due to the rash and negligent driving of the driver of RTC bus bearing No.AP 9Z 5238.

6. With regard to the quantum of compensation awarded by the Tribunal is concerned, the Tribunal is justified in granting the compensation of Rs.4,00,000/- to the claimants. As per the evidence on record, the deceased was 50 years old and selling bakery items and earning Rs.3,000/- per month. The Tribunal after deducting 1/3rd thereof towards personal expenses, after applying the multiplier '13', assessed the compensation payable at Rs.4,68,000/- to the claimants and restricted the claim to Rs.4,00,000/-. In view of the same, there is justification in granting the interest @ 9% per annum on the said compensation. There is no infirmity in the order under challenge. There are no circumstances to interfere with the impugned order.

7. In the result, the appeal is dismissed.

The Miscellaneous Petitions, if any, pending shall stand closed.

No costs.

Dr. SHAMEEM AKTHER, J

Date: 21.08.2018
ssp