

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.1329 of 2005

JUDGMENT:

This appeal is preferred by the appellant-APSRTC (now TSRTC) under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity), aggrieved by the grant of compensation of Rs.2,00,000/- by the Chairman, Motor Accident Claims Tribunal-cum-III Additional District Judge, Warangal ('the Tribunal' for brevity), vide order, dated 06.09.2004, passed in O.P.No.493 of 2002.

2. On 11.6.2018, when the matter was taken up, counsel for respondents-claimants was present and there was no representation for appellant-RTC. So, the matter was directed to be listed to today under the caption 'for orders'. Even today, counsel for the respondents-claimants is present, but at request of the learned counsel for the appellant-RTC, the matter was passed over indicating that it would be taken up around 2.30 PM. Accordingly, when the matter is taken up, there is no representation for the appellant-RTC. Heard the learned counsel for the respondents-claimants and perused the record.

3. In the grounds of appeal, it was urged that the subject accident did not occur due to rash or negligent act of the driver of bus bearing registration No.AP 10Z 7071; that the compensation awarded is excessive; that R.W.1-driver of the offending bus clearly and categorically deposed that there was negligence on the part of the other vehicle viz. Luna bearing

registration No.AP36A 2798 by which the deceased was travelling; that the Tribunal erred in tagging the liability against the appellant-RTC, and ultimately, it was prayed to set aside the impugned order.

4. The learned counsel for the respondents-claimants would submit that the Tribunal had taken all the relevant factors into consideration and assessed and awarded just and reasonable compensation, and there are no grounds to reduce the same, and ultimately, prayed to dismiss the appeal.

5. In view of the above contentions, the points that arise for consideration in this appeal is whether the deceased Md. Yakub Ali died due to rash and negligent driving of RTC bus bearing registration No.AP 10Z 7071 and whether grant of compensation of Rs.2,00,000/- by the Tribunal is just and reasonable ?

6. The respondents-claimants filed the claim petition claiming compensation of Rs.2,00,000/- on account of death of one Md. Yakub Ali in a road accident that occurred on 07.11.2000 alleging rashness and negligence on the part of the driver of RTC bus bearing registration No.AP10Z 7071. P.W.2 is an eye-witness to the occurrence of the accident. Driver of the offending RTC bus (R.W.1) was prosecuted for causing the subject death for driving the offending vehicle in rash and negligent manner resulting in death of the deceased. From the criminal case records marked as Exs.A1 and A2 as well as the evidence of P.W.2, it is clear that the subject accident occurred due to rashness and negligence of driver of the RTC bus

resulting in death of the deceased. R.W.1 is highly interested person. Therefore, it is unsafe to place reliance on his evidence. The Tribunal elaborately discussed all the aspects and held that there was negligence on the part of the driver of the RTC bus in causing the accident. The said finding is based on the evidence on record and there is nothing to take a different view.

7. The other point is whether grant of compensation of Rs.2,00,000/- by the Tribunal is just and reasonable. The Tribunal recorded a finding that the deceased was treating cattle as country veterinary doctor, and assessed his income as Rs.60,000/- per annum. It applied suitable multiplier '5' to the age of the deceased (65 years). After deducting $1/3^{\text{rd}}$ of the income towards personal expenses of the deceased, the Tribunal arrived at Rs.2,00,000/- (Rs.40,000/- x 5) towards loss of dependency. No infirmity is found in the said finding. Further, the Tribunal granted Rs.10,000/- towards loss of consortium, Rs.2,000/- towards funeral expenses and Rs.500/- each towards transport expenses and damage to cloth and articles. In all, the Tribunal assessed compensation at Rs.2,13,500/-, but confined it to Rs.2,00,000/- as claimed. It is apt to refer to the recent decision of the Apex Court in National Insurance Co. Ltd., Vs. Pranay Sethi and others¹, wherein the Apex Court granted Rs.70,000/- towards conventional heads like loss of consortium, funeral expenses and loss of estate. Therefore, in any case, it cannot be said that the compensation awarded by the Tribunal is excessive. In the circumstances, grant of compensation of

¹ 2017 (6) ALD 170 (SC)

Rs.2,00,000/- with interest 9% per annum from the date of petition till the date of deposit, is just and reasonable. There are no grounds to interfere with the order of the Tribunal. The appeal is devoid of merit and liable to be dismissed.

8. In the result, the appeal is dismissed. No costs.

Miscellaneous Petitions pending, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

19.6.2018
DRK



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