

THE HON'BLE SRI JUSTICE M.GANGA RAO

M.A.C.M.A. No.299 OF 2011

JUDGMENT:

Appellant-Andhra Pradesh State Road Transport Corporation filed this appeal against the award and decree dated 11.06.2008 passed by the Chairman, Motor Vehicles Accidents Claims Tribunal-cum-The Principal District Judge, Medak at Sangareddy, in M.V.O.P.No.384 of 2006 whereby the Tribunal awarded a sum of Rs.5,00,000/- towards compensation for the death of deceased Sara Pandaiah @ Pandu in the motor accident occurred on 28.02.2006.

Respondents-claimants, who are the wife, children and parents of the deceased Sara Pandaiah respectively, filed claim petition under Section 166 of the Motor Vehicles Act, 1988, alleging that on 28.02.2006 while the deceased was proceeding on his Hero Honda Passion Plus motor cycle bearing No.AP-23/H-8671 from Ramachandrapuram Village to Sangareddy Town, on the way near burial grounds in the outskirts of Sangareddy Town on Jogipet-Sangareddy Road, one RTC bus bearing No.AP-10/Z-3702 of Gajwel-Pregnapur bus depot being driven by its driver in a rash and negligent manner and came in wrong side and dashed against the motor cycle of the deceased, due to which, the deceased fell down and sustained grievous injuries on head and other vital parts and died on the spot. The motor cycle of the deceased was completely damaged. Sangareddy Police registered a case in crime No.28/2006 for the offence punishable under Section 304-A of India Penal Code and also filed charge sheet stating that the accident was occurred due to the rash and negligent driving of the bus driver. The deceased was aged about 30 years, working as LIC agent and earn Rs.20,000/- per month and also he used to earn Rs.10,000/- from six acres of agricultural land owned by him.

That apart, the deceased also used to earn Rs.10,000/- from the tractor/trailer No.AP-23/T-6518 and 6519 owned by him. Thus, the dependents of the deceased claimed compensation of Rs.5,00,000/- with interest @ 18% per annum against the appellant-respondent.

The appellant-Insurance filed a counter denying the averments of the claim petition and alleging contributory negligence on the part of the deceased in driving the motor cycle and causing accident.

Based on the above pleadings, the Tribunal framed the following issues:

- 1) Whether the accident occurred due to the rash and negligent driving of the driver of the crime vehicle?
- 2) Whether the petitioners are entitled for compensation, if so, at what quantum and from whom?
- 3) To what relief?

During the trial, PWs 1 to 3 were examined and Exs.A.1 to A.9 were got marked on behalf of the claimants. On behalf of the appellant, no oral and documentary evidence was adduced. Based on the evidence of PWs 1 and 2 and Exs.A.1 to A.6, the Tribunal came to the conclusion that the accident was occurred due to the rash and negligent driving on the part of the driver of the offending bus belonging to the appellant-APSRTC. Thus, the Tribunal answered issue No.1 in favour of the claimants and held that the appellant is liable to pay compensation. The Tribunal has taken the notional income of the deceased as Rs.4,000/- per month and arrived the annual income of the deceased as Rs.48,000/-. After deducting 1/3rd therefrom towards personal expenses of the

deceased, the annual contribution of the deceased to his family was arrived at Rs.32,000/-. After applying the multiplier of '17' as the age of the deceased is 30 years, the Tribunal arrived the future loss of earnings of the deceased at Rs.5,44,500/-. As the claim was made only for Rs.5,00,000/-, the Tribunal has restricted the compensation and awarded Rs.5,00,000/- towards compensation along with interest @ 7.5% per annum from the date of petition till the date of realization.

Learned counsel for the appellant would mainly contend that there is contributory negligence on the part of the deceased in causing the accident. But, on perusal of the evidence of PWs 1 and 2 and Ex.A.1-certified copy of FIR, Ex.A.2- certified copy of charge sheet, Ex.A.3-certified copy of MVI report, Ex.A.4-certified copy of inquest panchanama, Ex.A.5-certified copy of Post Mortem Examination report and Ex.A.6-certified copy of scene of offence panchanama, this Court is of the view that the accident was occurred due to the rash and negligent driving of the driver of the offending bus. Further, the appellant-APSRTC failed to lead any evidence for proving the contributory negligence on the part of the deceased in causing the accident. Hence, this Court is of the considered view that the Tribunal, basing the evidence available before it, has rightly held that the driver of the offending bus was responsible for the accident occurred.

Learned counsel would further contend that the Tribunal erred in applying the multiplier of '17' instead of '16.5'. This contention is also untenable for the reason that in view of the ratio laid down by the Hon'ble Supreme Court in **Sarla Verma &**

others vs. Delhi Transport Corporation & another¹, the Tribunal has adopted the appropriate multiplier as the petitioner was aged 30 years at the time of the accident and this Court find no ground to interfere with the same.

For the reasons stated above, the appeal is dismissed confirming the award and decree dated 11.06.2008 passed by the Chairman, Motor Vehicles Accidents Claims Tribunal-cum-The Principal District Judge, Medak at Sangareddy, in M.V.O.P.No.384 of 2006.

The appellant shall deposit the entire compensation amount, after deducting the amounts already deposited, with interest at 7.5% per annum from the date of petition till the date of realization within a period of one month from the date of receipt of a copy of this order. The respondents-claimants can withdraw their respective share amounts whenever such deposit is made, as ordered by the Tribunal. However, the share amount of minor claimants shall be kept in fixed deposit in any nationalized banks till they attain majority.

Miscellaneous petitions pending in this appeal, if any, shall stand closed. No order as to costs.

M.GANGA RAO, J

Dated 14th August, 2018
sur / slk

¹ (2009) 6 SCC 121