THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.489 OF 2005 AND CROSS OBJECTIONS (SR) NO.10918 OF 2005

COMMON JUDGMENT:

The appeal is filed by the APSRTC against the order, dated 07.07.2003 in O.P.No.542 of 2001, passed by the Motor Accident Claims Tribunal-cum-District Judge, Khammam, aggrieved by grant of compensation of Rs.12,00,000/- with interest at 9% p.a. from the date of petition till the date of realization.

2. The claimants filed the cross-objections seeking enhancement of compensation to Rs.15,00,000/- as claimed.

3. Heard both sides and perused the record.

4. Learned standing counsel for the appellant-APSRTC would submit that the Tribunal had erroneously taken the monthly income of the deceased-K.T.Subramanyam as Rs.12,500/- and granted compensation of Rs.12,50,000/- and since the claimants had already withdrawn Rs.50,000/- under no fault liability in O.P.No.125 of 2000, the same was deducted and compensation of Rs.12,00,000/- was granted, which is excessive. It is also contended that the claimants are entitled to interest only at 7.5% p.a. and grant of interest at 9% p.a. is erroneous and ultimately, prayed to allow the appeal.

5. On the other hand, learned counsel for the claimants would submit that the Tribunal had taken monthly income of the deceased as Rs.12,500/- but not taken the income received from Srinivasa Industries i.e.,

Rs.5,000/- per month and awarded meagre compensation. It is also contended that grant of interest at 9% p.a., is quite reasonable and ultimately, prayed to enhance the compensation to Rs.15,00,000/- as claimed.

6. There is no dispute with regard to the death of the deceased in a motor accident, which occurred on 10.08.1999 due to rash and negligent driving of the RTC bus bearing No. AP 10 Z 4206 by its driver. To substantiate the claim of Rs.15,00,000/-, the 1st claimant was examined as P.W.1 and got marked Ex.A1-certified xerox copy of F.I.R., Ex.A2-certified xerox copy of charge sheet, Ex.B3-certified xerox copy of post-mortem examination report, Ex.A4-certified xerox copy of MVI report, Ex.A5-Vehicle daily log sheet, Ex.A6-salary certificate issued by Hyderabad Casting Ltd., Ex.A7-appointment letter issued by Hyderabad castings, Ex.A8-certificate of consultancy issued by Srinivasa Industries, Ex.A9-certificate issued by Andhra Mission Industries, Ex.A10-certificate issued by Hyderabad Malluble Products, Ex.A11-certificate issued by Sirpur Paper Mills Ltd., and Exs.A12 and A13- Income tax returns of the deceased. There is substantial evidence to prove that the death of the deceased was due to rash and negligent driving of the APSRTC bus by its driver on 10.08.1999.

7. The only question is whether the compensation granted in favour of the claimants is liable to be enhanced to Rs.15,00,000/- from Rs.12,50,000/- and whether grant of interest at 9% p.a. is reasonable?

8. Except the self serving statement of P.W.1, who is the wife of the deceased, there is no other ocular

evidence. As per the evidence on record, the deceased was 45 years old and was Consulting Engineer. The Tribunal had acted upon Exs.A6 and A7, which are salary certificate and appointment letter of the deceased and concluded that monthly income of the deceased was Rs.12,500/-. It is also contended that the deceased was working in Srinivasa Industries. But, no employee of the said Srinivasa Industries was examined to believe that the deceased was also drawing Rs.5,000/- per month in addition to Rs.12,500/- per month. The Tribunal had deducted 1/3 rd of the income of the deceased towards personal expenses and after applying suitable multiplier 12 for the age of 45 years, awarded compensation as mentioned hereunder:

1.Loss of earnings Rs.8334 x 12 x 12	= Rs.12,00,096/-
2.Loss of consortium to the 1st petitioner-wife of the deceased	= Rs. 25,000/-
3. Loss of estate	= Rs. 25,000/-
Total	Rs.12,50,096/-

The calculation was made on some principles and law applicable. Moreover, the death relates to the year 1999. The earning capacity in those days is required to be taken into consideration. Therefore, taking Rs.12,500/- per month as income of the deceased is quite reasonable.

9. As far as grant of interest at 9% p.a. on the amount awarded from the date of filing of the petition till the date of realization is concerned, it is just and reasonable. There are no grounds to vary the same. The submissions made on behalf of the APSRTC and the claimants do not merit consideration.

10. In the result, M.A.C.M.A. is dismissed. As far as cross-objections are concerned, they do not merit consideration and accordingly, disposed of. The impugned order, dated 07.07.2003 in O.P.No.542 of 2001, passed by the Motor Accident Claims Tribunal-cum-District Judge, Khammam is confirmed. No order as to costs. Miscellaneous petitions, if any pending in this appeal shall stand closed.

DR.SHAMEEM AKTHER, J

DATED: 07-06-2018
Hsd