

THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT

AND

THE HON'BLE SMT JUSTICE T. RAJANI

MACMA.No.933 of 2015

JUDGMENT: (*per the Hon'ble Sri Justice Suresh Kumar Kait*)

Vide the present appeal, the appellant-APSRTC challenged the award dated 16.12.2013 passed in OP.No.504 of 2010 whereby the learned Tribunal awarded compensation to the tune of Rs.29,15,880/- with costs in favour of the respondents/claimants with interest at 7% per annum from the date of filing of the petition till the date of realization.

2. Learned counsel for the appellants argued that the learned Tribunal committed irregularity in holding that the accident occurred due to rash and negligent driving of the driver of the APSRTC bus bearing No.AP 28 Z 613 without there being any acceptable evidence on record. While the deceased person was taking right turn on his motor cycle, at the time of the accident, he did not follow traffic rules and contributed to the accident. However, the learned Tribunal failed to consider the above said facts.

3. Learned counsel for the appellants further argued that the learned Tribunal erred in taking the salary of the deceased as per Ex.A6 salary certificate without examining the authorized person with regard to his occupation and income. Thus, the learned Tribunal ought to have appreciated the fact that the appointment letter, attendance register and other relevant records were not placed before the tribunal

and in the absence of the same, the tribunal ought not to have fixed Rs.13,430/- per month as the salary of the deceased.

4. The brief facts of the case are that on 17.08.2010 at about 7.04 Hrs, the deceased Shekar was proceeding on Hero Honda Passion Plus motor cycle bearing No.MBL-HA10EG8 GDO 6768 from Moinabad side, Cyberabad, towards Langerhouse side, with great care and diligence, with extreme left side of the road, by following the traffic rules, and when he reached Machirevulu T junction, Rajendranagar Mandal, R.R. District at the same time the driver of one APSRTC bus bearing No.AP 28 Z 613 drove the said vehicle in high speed and rash and negligent manner and dashed to the deceased motor cyclist in same direction, on account of which the motor cyclist fell down on the road and sustained grievous injuries. Immediately after the accident the deceased was shifted to Apollo Hospital, Jubilee Hills, Hyderabad for treatment, but where the doctors declared as dead. Accordingly, a crime was registered in Cr.No.221 of 2008 under Section 304-A IPC against the driver of the APSRTC. R1 and R2 are the owners of the APSRTC bus and as such, both were jointly and severally liable to pay the compensation to the petitioner.

5. So far as rash and negligent act on the part of the RTC driver, P.W.2, who is no other than eye witness to the accident, categorically sated that on 17.08.2010 at about 7.04 Hrs he went to Langerhouse to T Junction, Rajendranagar Mandal, R.R. District, to attend his duty at Grey Hounds. At the same time, one person by name V. Shekar was proceeding on his bike and when he reached T junction and taking right turn by following rules and regulations/care, at that

time one RTC bus bearing No.AP 28 Z 613 was proceeding to Langerhouse from Moinabad with high speed in rash and negligent manner and dashed motor cyclist namely V. Shekar due to which he fell down on the road and received grievous blood injuries. Thereafter, immediately he was shifted to Apollo Hospital, Jubilee Hills, Hyderabad, where while undergoing treatment he died.

6. The appellants have not brought any witness or material to rebut the deposition of P.W.2 before the tribunal. Thus, we find no ground in favour of the appellant in the present appeal on the aforesaid issue.

7. The learned Tribunal has assessed the salary of the deceased as per Ex.A6 salary certificate. It is not in dispute that the deceased was working as Senior Commando – 6262, APSV and to prove his salary, the claimants produced on record the salary certificate, which is Ex.A6. The appellants failed to produce any witness, which establishes that the deceased was not working as Senior Commando and was not getting salary as per Ex.A6. Thus, on this count also, we find no substance in the present appeal.

8. Accordingly, finding no illegality and perversity in the award dated 1612.2013, we hereby maintain the same. Finding no merit in the present appeal, the appeal is hereby dismissed with no order as to costs. As a sequel, the miscellaneous applications, if any pending, shall stand closed.

SURESH KUMAR KAIT, J

T. RAJANI, J