

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A No.1941 OF 2016

JUDGMENT:

On the ground that the Chairman-cum-XXVII Additional Chief Judge, City Civil Court, Secunderabad (for short, 'the Tribunal') awarded excess compensation of Rs.14,88,000/- in M.V.O.P.No.335 of 2014, as against the claim of Rs.10,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'M.V. Act') by the order and decree, dated 23.09.2015, the present Appeal is preferred by the Andhra Pradesh State Road Transport Corporation through its Managing Director, under Section 173 of the M.V. Act. to set aside the order and decree.

2. Heard Sri N. Vasudeva Reddy, learned standing counsel for the appellant and Sri Emmadi Srinivasa Reddy, learned counsel for the respondents-claimants.

3. There cannot be any dispute with regard to the rash and negligent driving on the part of the driver of R.T.C. bus, as he did not even step into witness-box and depose and the finding recorded by the Tribunal thereon is, therefore, confirmed.

4. On Issues 2 and 3, learned Tribunal has appraised the evidence of P.Ws.1 to 3 and Exs.A1 to A8 taking into account that the deceased was an employee in Welding shop, used to earn Rs.10,000/- per month and contribute the same to his family and even Aadhaar

cards of the petitioners-claimants and police investigation reveal the same, besides the evidence of P.W.3-employer of the deceased, being the proprietor of M/s. Modern Electrical Works, stating that deceased used to earn monthly salary of Rs.10,000/- as per Ex.A8 issued by him, arrived at the conclusion that Rs.9,000/- being the income of the deceased would be just and equitable and deducted 50% thereof towards personal living expenses and thus, arrived at Rs.54,000/- ($\text{Rs.9,000/-} \times 12 = \text{Rs.1,08,000/-} / 2 = \text{Rs.54,000/-}$), besides taking 50% on the income towards future prospects, and, thus, arrived at Rs.81,000/- towards loss of dependency and worked out the compensation by applying the multiplier factor '18' and thereby arrived at Rs.14,58,000/- ($\text{Rs.81,000/-} \times 18$), besides granting funeral expenses of Rs.25,000/- and transportation charges of Rs.5,000/-, and, thus, in all the claimants are awarded compensation of Rs.14,88,000/-.

5. Learned Standing Counsel would submit that without there being any positive evidence to prove the contents of Ex.A8, it cannot be said that the deceased was drawing a monthly salary of Rs.9,000/- and there is tendency of exaggerating income in accident cases and P.W.3 has not filed any supportive evidence.

6. Learned counsel for the respondents-claimants would submit that the Tribunal did not commit any error and the order does not suffer from any infirmity and, therefore, confirm the same.

7. Learned Standing Counsel would also submit that the ruling in **National Insurance Company Limited v. Pranay Sethi and Others**¹ rendered by Larger Bench of the Hon'ble Supreme Court would lay down 40% towards future prospects where the deceased is aged 25 years, and, therefore, 50% of the income taken by the Tribunal towards future prospects is required to be reduced to 40%. Besides the same, even funeral expenses of Rs.25,000/- granted by the Tribunal requires to be reduced to Rs.15,000/- as laid down by the Hon'ble Apex Court in the same decision. Thus, he would request to reduce the compensation amount.

8. What all submitted by the learned Standing Counsel is correct. Instead of 50%, 40% is to be computed and when the same is applied on future prospects, it works out to Rs.75,600/- per annum, as against Rs.81,000/- granted by the Tribunal, and when applied the multiplier '18', it works out to Rs.13,60,800/- (Rs.75,600/- x 18). Besides the same, the claimants are entitled to Rs.15,000/- towards funeral expenses and Rs.5,000/- towards transportation charges, and, thus, in all entitled to Rs.13,80,800/-. Interest awarded at the rate of 7.5% per annum by the Tribunal is reasonable, and, therefore, the same is confirmed.

9. Accordingly, the Appeal is partly allowed reducing the compensation from Rs.14,88,000/- to Rs.13,80,800/- with interest at

¹ 2017 LawSuit (SC) 1093

7.5% p.a. from the date of petition till the date of realization. The apportionment among the petitioners-claimants would be in accordance with the apportionment made by the Tribunal.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Appeal shall stand closed.

A. SHANKAR NARAYANA, J

Dt. 04.4.2018

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