

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.776 OF 2012

JUDGMENT:

This appeal is filed by the appellants-respondents aggrieved by the Order and Decree dated 18.01.2011 passed in M.A.T.O.P.No.697 of 2008 by the Motor Accidents Claims Tribunal (Judge, Family Court-cum-Additional District Judge), Khammam (for short, the Tribunal).

2. The brief facts of the case are that respondent Nos.1 and 2 herein are the father and mother of the deceased, Ravuri Ramesh. On 09.05.2007, the deceased went for coolie work at Tutikuntla on the Tractor and Tractor bearing No.AP20T-2778/2780. After completion of the work, the deceased returned to the village on the said tractor. At about 3.30 pm., when the Tractor reached outskirts of Ashnagurthy Village, the driver of the Tractor drove it in a rash and negligent manner, and when some buffalos came across the road suddenly, the driver of the Tractor applied sudden brakes, due to which, the deceased fell down on the road and the right wheel of the trailer went over the body of the deceased, as a result of which, the deceased sustained grievous injuries and died. The respondents herein filed aforesaid MATOP claiming compensation of Rs.3,00,000/- for the death of the deceased.

3. Before the Tribunal, the appellants herein, who are the driver and owner of the Tractor and Tractor, filed counter denying the averments of the claim petition and contended that there was no

negligence on the part of the driver of the Tractor in the accident and prayed to dismiss the claim petition.

4. After considering the oral and documentary evidence on record, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the Tractor and awarded total compensation of Rs.3,00,000/- with interest @ 7.5% per annum. Aggrieved by the said Order, the driver and owner of the Tractor filed the present appeal.

5. Sri Surender Reddy, learned counsel for the appellant, submits that as R.Ws.1 to 3 deposed that the deceased was negligent in sitting on the Tractor without any precautions and without holding any support, the Tribunal ought to have held that the accident occurred due to the negligence of the deceased himself and ought not to have fasten the liability on the appellants. He further submitted that as the deceased was a bachelor, the Tribunal ought to have deducted 50% from the income of the deceased towards personal expenses instead of 1/3rd, as per the judgment of the Hon'ble Supreme Court in **Smt.Sarla Varma Vs. Delhi Transport Corporation**¹, and sought to reduce the compensation amount.

6. Sri Pulla Rao Yellanki, learned counsel for the respondents, submits that the Tribunal, basing on the evidence on record, rightly held that the accident had occurred due to the rash and negligent

¹ 2009(6) SCC 121

driving of the driver of the Tractor. He further submits that the deceased was aged about 20 years at the time of accident, and as per **Smt.Sarla Varma's** case (supra), the appropriate multiplier for the age of the deceased is '18', but the Tribunal wrongly applied the multiplier of '16'. He further submits that the Tribunal calculated the total loss of dependency at Rs.3,20,000/-, but restricted the compensation amount to Rs.3,00,000/-, on the ground that the claimants claimed only Rs.3,00,000/- and seek to enhance the compensation in that regard.

7. Insofar as finding of the Tribunal that the accident took place on account of rash and negligent driving of the driver of the Tractor and Tractor is concerned, I see no reason to interfere with the same and the same is confirmed. The Tribunal fixed the income of the deceased at Rs.2,500/- per month, deducted 1/3rd towards personal expenses and adopted multiplier '16' while calculating the compensation. As per **Sarla Varma's** case (supra), 50% of the income should be deducted towards personal expenses, as the deceased was a bachelor, and as the deceased was aged about 20 years, the appropriate multiplier, is '18'. Therefore, the income of the deceased comes to Rs.1,250/- per month (Rs.2,500/- X 50%). Hence, the compensation under the head loss of dependency comes to Rs.2,70,000/- (Rs.1,250/- x 12 x 18).

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed reducing the compensation amount awarded by the

Tribunal from Rs.3,00,000/- to Rs.2,70,000/-. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 01.07.2019
TJMR

