

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1592 of 2012

JUDGMENT:

This appeal is filed by the appellants-RTC aggrieved by the Order and Decree dated 03-06-2011 passed in O.P.No.169 of 2009 by the XV Additional Chief Judge -cum- I Additional Metropolitan Sessions Judge, Hyderabad (for short, the trial Court).

2. Brief facts of the case are that on 20-06-2008 while the deceased – E.Madhavachary was proceeding on foot, after getting down from the bus at bus stop, and when he reached near Kista Reddy Petrol Bunk, at about 8.30am, one RTC bus bearing No.AP 28Z 2418 came in opposite direction, driven by its driver in a rash and negligent manner at high speed and dashed against him, due to which, he fell down on the road and received multiple fractures and grievous injuries and died on the spot. Hence, the claimants, who are the wife, parents and son, respectively, filed the claim petition claiming compensation of Rs.5.00 lakhs against the respondent Nos.1 and 2- APSRTC for the death of the deceased by contending that the deceased was a Carpenter and earning Rs.6,000/- per month.

3. In the claim petition, the respondents-RTC filed their counter denying the averments of the claim petition and contended that the amount claimed is excessive 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 on the part of the driver of the crime vehicle only. So far as granting of compensation is concerned, the Tribunal granted an amount of Rs.3,95,000/- i.e. Rs.3,60,000/- towards loss of dependency; Rs.5,000/- towards funeral; Rs.15,000/- towards loss of estate and Rs.15,000/- to the 1st claimant towards consortium. Accordingly, it partly allowed the claim petition granting total compensation of Rs.3,95,000/- with interest at 7.5% per annum through out.

5. Aggrieved by the said compensation, the appellants/RTC filed the present appeal, seeking for dismissal of the appeal.

6. Heard the learned Standing Counsel for the appellants-RTC and the learned counsel for the respondents-claimants.

7. Sri C.Sunil Kumar Reddy, learned Standing Counsel for the appellants-RTC, contends that the Tribunal erred in awarding compensation of Rs.3,60,000/- towards loss of dependency by applying multiplier '15' instead of '14'. As per the decision of the Supreme court in **Smt. Sarla Varma v. Delhi Transport Corporation**¹, at the age of 42, the applicable multiplier is '14'. Hence, he prayed to dismiss the appeal.

¹ (2009) 6 S.C.C. 121

8. Learned counsel for the respondents-claimants contends that it is a case of death and at the time of accident, the deceased was aged about 42 years and earning Rs.6,000/- per month by working as a Carpenter. He further contends that the award passed by the Tribunal is well considered and cannot be interfered with and he supported the order of the Tribunal.

9. As seen from the order of the Tribunal, the Tribunal has taken monthly income of the claimant @ Rs.3,000/- per month. Admittedly, there is no dispute with regard to the deceased was working as a Carpenter and earning some income. Further, as contended by the learned counsel for the appellants-RTC, the Tribunal wrongly applied multiplier '15' instead of '14' as per the decision of the Supreme Court in **Smt. Sarla Varma** (1 supra). Hence, I am of the view that the multiplier applied by the Tribunal is not correct and therefore, the correct multiplier is '14' and that the computation has to be done with multiplier '14' while awarding compensation under the head of loss of dependency. Then, the total loss of dependency comes to Rs.3,36,000/- (24000 (x) 14).

10. Except the above modification, the compensation awarded by the Tribunal under other heads shall remain unchanged. Therefore, the claimants are granted total compensation of Rs.3,71,000/- (3,36,000/- + 5000 + 15000 + 15000).

11. In the result, the appeal is allowed in part and the compensation awarded by the Tribunal is reduced from Rs.3,95,000/- to Rs.3,71,000/- (Rupees Three Lakhs and Seventy One Thousand only). No costs.

12. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE T.AMARNATH GOUD

Date: 14.08.2019
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