

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.587 OF 2011

JUDGMENT:

This appeal is filed by the appellants-claimants aggrieved by the Order and Decree dated 29.06.2005 passed in M.V.O.P.No.248 of 2002 by the Motor Vehicle Accident Claims Tribunal-cum-III Additional District & Sessions Court (Fast Track Court) at Medak (for short, the Tribunal).

2. The brief facts of the case are that appellant No.1 is the husband, appellant Nos.2 and 3 are the sons and appellant Nos.4 and 5 are the daughters of the deceased, T.Anasuya. On 19.02.2001, while the deceased was returning to her village along with her nephew from Dharmareddy Village on scooter bearing No.AP23 9139, and when they reached Medak Bus Stand, one RTC bus bearing No.AP10Z 1538 came in a rash and negligent manner at high speed in opposite direction and dashed against the scooter, upon which, the deceased died on the spot. The claimants filed aforesaid MVOP claiming compensation of Rs.1,50,000/- against the RTC for the death of the deceased.

3. Before the Tribunal, the respondent-RTC filed its 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 of the driver of the scooter, but not of the driver of the RTC bus and dismissed the claim petition. Challenging the same, the claimants filed the present appeal.

5. Sri Patolla Venkat Reddy, learned counsel for the appellants, submits that the Tribunal, believing the evidence of R.W.1 (driver of the RTC bus), who stated that at the time of accident, three passengers were traveling on the scooter, which came at high speed in a rash and negligent manner; that the scooter came on wrong side; that the criminal case booked against him was acquitted, came to a wrong conclusion that the accident had occurred due to the rash and negligent driving of the driver of the scooter, but not of the driver of the RTC. He further submits that the Tribunal erred in believing the evidence of P.Ws.1 and 2. Therefore, he sought to set aside the order of the Tribunal and grant compensation.

6. Sri N.Vasudeva Reddy, learned Standing Counsel for the respondent-RTC, submitted that the Tribunal passed a well reasoned order and sought to dismiss the appeal.

7. A perusal of the order of the Tribunal, it is clear that the Tribunal did not believe the evidence of P.Ws.1 and 2. The

Tribunal relied on the evidence of R.W.1, the driver of the RTC bus, and came to the conclusion that the accident had occurred due to the negligent driving of the driver of the scooter and accordingly, dismissed the claim petition. A perusal of the evidence, I am of the opinion that the reasoning of the Tribunal in coming to the conclusion that the accident had occurred due to the negligent driving of the driver of the scooter and not of the RTC bus, cannot be believed. Therefore, the order of the Tribunal is liable to be set aside and the appellants are entitled to compensation for the death of the deceased.

8. As the deceased is stated to be a vegetable vendor, this Court is inclined to take her notional income at Rs.3,000/- per month. Apart from the same, the appellants are entitled to addition of 25% towards future prospects, as per the decision of the Hon'ble Supreme Court in **National Insurance Co. Ltd. Vs. Pranay Sethi**¹. Therefore, monthly income of the deceased comes to Rs.3,750/- (Rs.3,000/- + Rs.750/-), and after deduction of 1/4th, the annual income comes to Rs.33,756/- (Rs.2,813/- X 12 months). The deceased is stated to be 44 years and the appropriate multiplier for her age is '14'. Hence, the compensation under the head 'loss of income' comes to Rs.4,72,584/- (Rs.33,756/- X 14). Apart from the same, the appellants are entitled to Rs.70,000/- towards conventional heads, as per **Pranay Sethi's** case (supra). Therefore,

¹ 2017(6) ALD 170 (SC)

the total compensation comes to Rs.5,42,584/- (Rs.4,72,584 + Rs.70,000/-).

9. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed and the order of the Tribunal dated 29.06.2005 in M.V.O.P.No.248 of 2002 is set aside. The appellants are entitled to a compensation of Rs.5,42,584/- along with interest @ 7.5% per annum from the date of claim petition till realization. As the claimants claimed only Rs.1,50,000/-, they are directed to deposit deficit Court fee before the Tribunal. Miscellaneous petitions pending, if any, shall stand closed. No costs.

Date: 04.07.2019
TJMR

T.AMARNATH GOUD, J

