

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

MACMA. No. 584 of 2019

Dated : 30.04.2019

Between:

Telangana State Road Transport Corporation
Rep.by its Chairman and Managing Director,
Musheerabad, Hyderabad and another.

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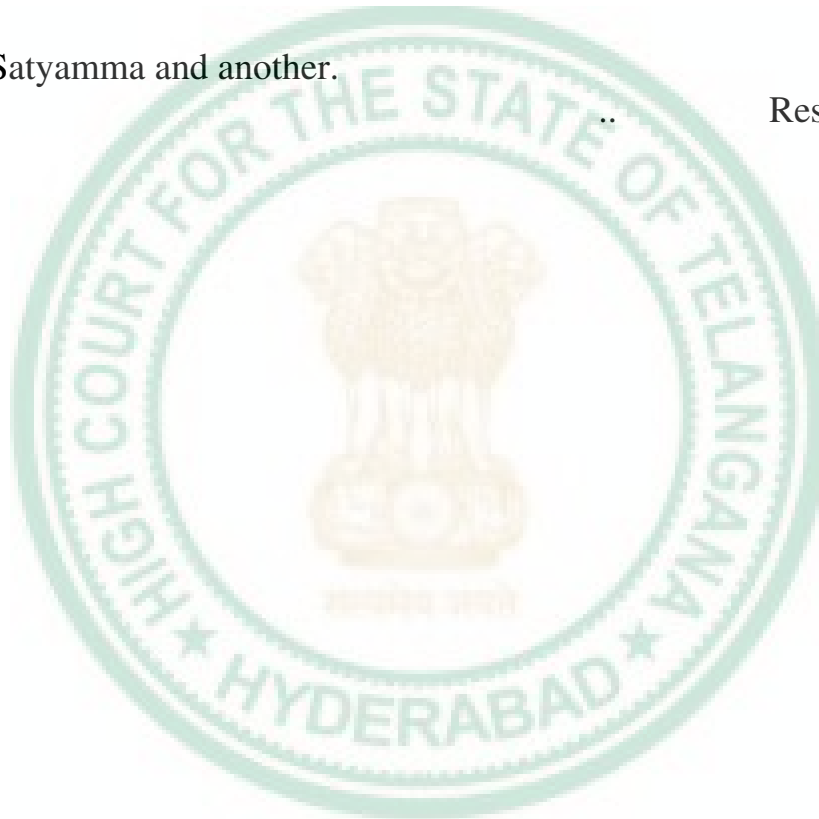
Petitioner

And

Rapalli Satyamma and another.

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Respondent



This court made the following :

THE HON'BLE SRI JUSTICE P.NAVEEN RAO**MACMA. No. 584 of 2019****ORDER :**

Heard learned counsel for the appellants-Corporation and learned counsel representing respondents.

2. This appeal is preferred against the award of the Tribunal holding the driver of the appellant-Corporation was negligent in driving the bus resulting in fatal accident and awarded compensation of Rs.8,96,800/- under various heads with interest @ 7.5% p.a. from the date of filing of the petition till realisation.

3. Learned counsel for the appellant Corporation contends that there was contributory negligence by the deceased and therefore the liability cannot be fastened on the Corporation alone. He further submits that though no income proof was produced by the claimants proving the income earned by the deceased, the Tribunal arrived at Rs.6,000/- as monthly income of the deceased to determine the compensation. He further submits that the deceased was unmarried and the loss of future prospects and apportionment to the family were not properly worked out. He further submits that the Tribunal awarded an amount of Rs.15,000/- towards loss of love and affection, Rs.15,000/- towards transportation and Rs.10,000/- towards funeral expenses which

is contrary to the law laid down by the Honourable Supreme Court *National Insurance Company Limited v. Pranay Sethi and others* ¹.

4. Learned counsel representing respondents submits that the Tribunal is justified in holding that due to negligence on the part of driver of the bus, the accident occurred. The Tribunal is also justified in notionally assessing the income of the deceased and allocation of amounts against various headings. However, with regard to the law laid down by the Supreme Court in *National Insurance Company Limited v. Pranay Sethi's case*, he fairly submits that the amounts awarded by the Tribunal against the conventional heads i.e., loss of love and affection, transportation and funeral expenses, can be restricted to Rs.30,000/- in all, instead of Rs.40,000/-.

5. As seen from the compensation arrived at by the Tribunal at para-9 of the award, it is apparent that the driver of the appellant Corporation was negligent in driving the bus causing accident resulting in death of the individual.

6. The stand of the appellant-Corporation that there was contributory negligence was rejected by the Tribunal. It noted that on the allegation of rash and negligent driving, departmental action was taken against the driver, resulting in imposition of punishment of withholding of two increments and that he is also facing criminal proceedings on the allegation of rash and negligent driving. Thus, the

¹ 2017 (6) ALT 60 SC

assessment of the Tribunal in holding that the accident was caused due to rash and negligent driving of the employee of the appellant Corporation requires no interference.

7. No other material was placed on record to show that the aforesaid finding of the Tribunal is erroneous.

8. It is not in dispute that the deceased was working as Auto Driver, when the accident occurred on 28.01.2017. In the year 2017, it cannot be said that an auto driver would not be earning Rs.6,000/- as assessed by the Tribunal. Since no documents were produced to prove the income, the Tribunal has notionally arrived the monthly earnings of the deceased @ Rs.6,000/-. The same do not call for interference.

9. As the deceased was aged 26 years, 40% of the monthly earnings can be taken as future prospects and consequently, the Tribunal has arrived at monthly earnings @ Rs.8,400/- to arrive at appropriate compensation. The decision of the Tribunal in deducing 50% of the income towards his personal expenses from the notional income, is also valid.

10. As learned counsel appearing for respondents fairly submits that the other conventional amounts can be restricted to Rs.30,000/-, the order of the Tribunal is upheld in all other respects except reducing Rs.10,000/- on other conventional heads.

11. Thus, the total amount of compensation payable to the claimants stands modified to at Rs.8,86,800/-. Rest of the directions issued stands as ordered by the Tribunal.

12. Accordingly, the appeal is disposed of. No order as to costs.

As a sequel to the disposal of the appeal, miscellaneous petitions, if any, pending shall stand closed.

30.04.2019
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P.NAVEEN RAO, J

