

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

M.A.C.M.A.Nos.451 & 452 OF 2019

Date:22.04.2019

M.A.C.M.A.No.451 OF 2019

Between:

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

.. Appellant/respondent

And

Bhukya Veeranna, S/o. Sevyu,
Age 35 years, Occ: Agriculture,
R/o. Chowlla Thanda, Thanamcherla
Village, Maripeda Mandal, Warangal
District and another

.. Respondent/respondent



This Court made the following :

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

M.A.C.M.A.Nos.451 & 452 OF 2019

COMMON JUDGMENT:

These two appeals are preferred by the Telangana State Road Transport Corporation against the orders dated 13.12.2018 in M.V.O.P.Nos.541 and 539 of 2016, respectively, on the file of Motor Accident Claims Tribunal-cum-VI Additional District Judge at Mahabubabad District (for short, 'the Tribunal').

2. The facts briefly noted are as under:

On 17.06.2015, when the respondents/claimants were proceeding in an auto on the outskirts of Thanamcherla Village, the driver of an RTC bus drove the vehicle in a rash and negligent manner at a very high speed and dashed against the auto, as a result of which, the claimant in M.V.O.P.No.541 of 2016 sustained injuries and one Tejavath Naga, deceased in M.O.V.O.P.No.539 of 2016, died on the spot. The injured and the family members of deceased Tejavath Naga respectively claimed compensation.

3. The facts on record would disclose that claimant in M.V.O.P.No.541 of 2016 sustained five injuries, out of which injuries 1 to 4 are grievous in nature. As regards injuries 1 to 4, he had undergone surgery on 17.06.2015 and was discharged on 30.06.2015. Thereafter, he was again admitted into hospital on 05.11.2015 with swelling over forearm and undergone surgery and earlier implant were removed and locking plates were fixed. He was discharged on 10.11.2015. The evidence on

record, as assessed by the Tribunal, would disclose that injuries suffered by the claimant in M.V.O.P.No.541 of 2016 were grave, as he was hospitalized and surgery was performed. Thus, the claimants in M.V.O.P.Nos.541 and 539 of 2016, respectively, claimed compensation of Rs.5,00,000/- and Rs.9,00,000/-, respectively.

4. Learned counsel for the appellants contended that the income earned by the injured and the deceased was not properly decided; in the absence of proof of working, the burden lies heavily on the claimants to show how much income was earned by the injured and the deceased in order to arrive at appropriate compensation. In the absence of such material brought on record to show the income earned by the injured and deceased, the compensation awarded is not justified. Learned counsel for the appellants also sought to contend that the auto driver was equally responsible and because of his negligent driving, the had incident occurred and thus, liability ought to have been fixed on the auto driver also, holding it as contributory negligence and the Tribunal erred in not considering this aspect. He would further submit that though the claimant in M.V.O.P.No.541 of 2016 claimed to have sustained injuries, the certificate of disability is not placed on record before the Tribunal. Therefore, he is not entitled to the amount of compensation determined.

5. Once rash and negligent driving is proved resulting in death of a person, the family members/dependants are entitled to claim compensation. There was no proof available with the appellants showing the income earned by the deceased. It was

asserted that the deceased was working as a clerk in a fertilizer shop and was also doing agriculture. Since there was no material to prove the income, the Tribunal has arrived at a notional income of Rs.4,000/- per month, which is based on the wages normally payable to labourers. To arrive at the additional income 40% over and above Rs.4,000/- was taken into consideration. Thus, the monthly income arrived at was Rs.5,600/- and yearly income at Rs.67,200/-. As deceased was unmarried, contribution to the family was treated as 50% of the said annual income, which comes to Rs.33,600/-. By applying the multiplier '18', the loss of dependency was arrived at Rs.6,04,800/- on account of untimely demise of Tejavath Naga. Thereafter, the Tribunal granted certain amount under various headings and in all the compensation arrived at was Rs.6,44,800/-.

6. Though the family members of the deceased claimed that the deceased was working as a clerk in a fertilizer shop and was also doing agriculture, the Tribunal has notionally arrived at Rs.4,000/- per month as income of the deceased. In the facts of this case, it cannot be said that the decision of the Tribunal in taking the income of the deceased notionally at Rs.4,000/- per month as erroneous. It cannot be said that an agricultural labourer would not earn even Rs.4,000/- per month. Even otherwise, accepting the contention of the Corporation would only amount to remitting the matter to the Tribunal for determining the income of the deceased. For more than one reason, the Court is not inclined to adopt said course. Firstly, the incident relates to the year 2015 and secondly the deceased

person was not working in an organized sector and there can be no proof of income drawn, as no attendance register is maintained in a private shop and wages are paid in cash and no receipts are issued by the employer to the agriculture labourer. Grave injustice would be caused to the family members of the deceased and even if the matter is remitted, no useful purpose would be served on this aspect. The Tribunal determined compensation by assessing income on notional basis and the compensation is awarded based on well settled principles.

7. The Tribunal, after holding that the claimant in M.V.O.P.No.541 of 2016 sustained injuries due to rash and negligent driving of RTC bus driver and is entitled to compensation, on five headings awarded compensation of Rs.2,05,000/- in total i.e., towards pain and suffering, an amount of Rs.70,000/-; hospital expenses and medicines, an amount of Rs.70,000/-; transportation, attendant charges and extra nourishment, an amount of Rs.30,000/-; loss of income during treatment period, an amount of Rs.15,000/- and towards future medical expenditure, an amount of Rs.20,000/-. The fact that the claimant in M.V.O.P.No.541 of 2016 underwent surgery on two occasions and had to be in hospital for a considerable period, is not disputed. The evidence clearly points out to the nature of injuries suffered by him. Therefore, merely because certificate is not produced cannot be a ground to hold that the said person has not sustained injuries. The compensation awarded by the Tribunal on five different headings, briefly noted above, cannot be held as erroneous necessitating this Court to interfere and to grant the relief as claimed by the appellants.

8. Having regard to the categorical finding of the Tribunal that the accident occurred due to the negligence of the driver of RTC bus and as no other material is placed on record to show that the auto driver also contributed to the incident, the findings of the Tribunal cannot be upset. It is also appropriate to note that the appellants specifically asserted this contention before the Tribunal and having evaluated the evidence on record, the Tribunal rejected the said contention.

9. I, therefore, see no error in the orders passed by the Tribunal warranting interference by this Court. Both the appeals are dismissed. Pending miscellaneous petitions, if any, shall stand closed.

Date:22.04.2019

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P.NAVEEN RAO, J