

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1509 OF 2006

JUDGMENT:

This appeal is filed by the appellant-2nd respondent/APSRTC aggrieved by the Order and Decree dated 02.02.2006 passed in O.P.No.989 of 2002 by the Motor Accidents Claims Tribunal (I Additional District Judge), at Khammam (for short, the Tribunal).

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the original petition.

3. The brief facts of the case are that the 1st petitioner is the wife, petitioners 2 to 4 are children and 5th petitioner is mother of the deceased-Kusumanchi Appa Rao. On 25.06.2002, at about 8.30 p.m., the deceased was traveling by Kinetic Spark bearing No.AP 20Z 1880 to Papakollu Village to see his mother and when he reached the outskirts of Tippanapally Village, then one RTC bus bearing No.AP 10Z 9066, driven by its driver, i.e., the 1st respondent in high speed, rash and negligent manner dashed the deceased, due to which he suffered grievous injuries and succumbed to the injuries. Prior to the accident, the deceased was aged about 40 years and was working as General Mazdoor in Singareni Collieries Company Limited, earning Rs.11,000/- per month. The accident occurred due to the rash and negligent driving of the RTC bus bearing No.AP 10Z 9066 by the 1st respondent. Due to untimely accidental death of the deceased,

the petitioners lost their livelihood and claimed compensation of Rs.7,00,000/-, payable by both the respondents, being the driver and Managing Director of APSRTC.

4. Before the Tribunal, the 1st respondent remained *ex parte*. The 2nd respondent 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.

5. After considering the oral evidence of P.Ws.1 & 2 and the documentary evidence of Exs.A-1 to A-5, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the offending bus and originally awarded total compensation of Rs.8,68,000/-, but since the claimants claimed only Rs.7,00,000/- towards compensation, the Tribunal has restricted the same and awarded compensation of Rs.7,00,000/- with interest @ 9% per annum from the date of petition till the date of realization, payable by both the respondents. Aggrieved by the same, the appellant/2nd respondent/APSRTC filed the present appeal.

6. Heard Sri B.Mayur Reddy, learned standing counsel for the appellant/2nd respondent/APSRTC.

7. The order passed by the Tribunal is just and proper in the light of the Apex Court judgments with regard to fixing of notional income and applying the multiplier and granting loss of dependency. However, with regard to the interest awarded by

the Tribunal @ 9% per annum from the date of petition till the date of realisation, which is very excessive, in view of the several decisions of the Apex Court, this Court feels that it would be just and appropriate if the interest granted by the Tribunal @ 9% is reduced to 7.5% on the awarded amount of Rs.7,00,000/-. Except the said modification, the remaining operative portion of the impugned order is confirmed.

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by reducing the interest from 9% to 7.5% on the compensation amount of Rs.7,00,000/- awarded by the Tribunal, from the date of petition till the date of realization, payable by both the respondents. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 21st November, 2019

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