

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1841 of 2010

JUDGMENT:

This appeal is preferred by the appellant/RTC questioning the order of the Motor Accident Claims Tribunal (District Judge) at Khammam (for short, the Tribunal) in M.V.O.P.No.348 of 2009 dated 06-07-2010.

2. Brief facts of the case are that on 23-07-2008 while the deceased Syed Arshad was riding his motorcycle bearing No.AP-30-6439 to go to his shop and when he reached opposite to C.P.I. party office, Bandarugudem, one RTC bus bearing No.AP-11-Z-3050 came from Suraksha bus stand, driven by its driver in a rash and negligent manner with high speed and dashed against his motorcycle, due to which, the deceased fell down and the bus ran over him, resulting his instantaneous death. Hence, the claimants who are his wife, parents and brother, respectively, filed a claim petition against the respondents-RTC claiming compensation of Rs.6.00 lakhs for the death of the deceased by contending that the deceased is earning income of Rs.10,000/- per month by doing business by name and style of Limra Mobile Sales and Service Centre at Manuguru and all they are dependents of the deceased.

3. In the claim petition, the appellant-RTC filed a counter denying the allegations and contended that the amount claimed by the claimants is highly excessive and that it is not liable to pay any compensation and therefore 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 bus and awarded total compensation of Rs.6,00,000/- under various heads, with interest at the rate of 7.5% per annum. Aggrieved by the said order, the appellant/RTC filed the present appeal.

5. Heard.

6. The case of the claimants is that the deceased was doing business and earning an amount of Rs.10,000/- per month. In the light of the evidence of P.Ws.2 and 3, who are independent eye witnesses and for the reasons indicated, the Tribunal has categorically held that the accident occurred on account of rash and negligent driving of the driver of RTC bus. Insofar as determining the quantum of compensation, the Tribunal has taken notional amount of Rs.5,000/- per month as the income of the deceased though there was a claim for Rs.6,000/- per month, which in my considered view, is just and proper.

7. Regarding the multiplier, as per **Sarla Varma v. Delhi Transport Corporation**¹, according to the age of the deceased, the correct multiplier applicable is '17' for the age 27 years. But the Tribunal applied multiplier '15'. In view of the same, the quantum of compensation under head of loss of income is to be re-determined and the claimants would be entitled for more compensation. However, since the claimants have not preferred any Cross Objections or appeal and more over, the contentions are confined only to the extent of liability with regard to the accident, this Court

¹ (2009) 6 S.C.C. 121

feels that the order passed by the Tribunal is reasonable and needs no interference.

8. In view of the same, the appeal filed by the RTC is liable to be dismissed and accordingly, the same is dismissed. No costs.

9. Miscellaneous petitions pending, if any, shall stand dismissed.
No order as to costs.

T.AMARNATH GOUD, J

Date: 31-07-2019
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