

HON'BLE SRI JUSTICE T. AMARNATH GOUD

M.A.C.M.A. No.829 of 2009

JUDGMENT:

1 This appeal is filed under Section 173 of M.V. Act challenging the award and judgment dated 26.09.2006 passed in O.P.No.871 of 2004 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-III Additional District Judge, Nalgonda, wherein and whereby an amount of Rs.1,00,000/- was awarded as compensation as against the claim of Rs.1,00,000/-. The respondent – APSRTC filed the present appeal.

2 For the sake of convenience, parties to this appeal will hereinafter be referred as they are arrayed before the Tribunal.

3 The facts leading to filing of the present appeal, briefly, are as follows:

4 On 09.02.2000 at about 12.00 Noon, one Neenavath Naresh (hereinafter referred to as 'the deceased') boarded the APSRTC bus bearing No.AP 9 Z 5315 at Devarakonda to go to his native place-Seetharam Thanda. As there was heavy rush in the bus, the deceased and others were travelling by standing on the ladder fixed on the rear side of the bus. When the bus reached near Bhemnapally bus stop, the driver of the bus had driven the bus in a rash and negligent manner due to which the deceased lost balance and fell down from the bus and died on the spot. In connection with the said accident, the Station

House Officer, Devarakonda P.S. police station registered a case against the driver of the bus in Cr.No.20 of 2000 under Section 304-A IPC. By the date of accident, the deceased was aged 10 years. The petitioners are the parents of the deceased. Hence the petitioners filed the petition seeking compensation of Rs.1.00 lakh. Therefore, the respondent is liable to pay the compensation to the petitioners.

5 The respondent filed written statement denying the material averments made in the petition, *inter alia* contending that the accident occurred due to the negligence of the deceased himself. There was no negligence on the part of the driver of the bus. The amount of compensation claimed by the petitioners under various heads is excessive and exorbitant. Hence the petition may be dismissed.

6 Basing on the above pleadings, the Tribunal framed the following issues for trial:

- i. Whether the deceased Neenavath Naresh died in the road accident? If so, whether the accident occurred due to the rash and negligent driving of the APSRTC bus bearing registration No.AP 9 Z 5315?
- ii. Whether the petitioners are entitled to claim compensation for the death of the deceased? If so, what amount?
- iii. To what relief?

7 During the course of trial, on behalf of the petitioners P.Ws.1 and 2 were examined and marked Exs.A.1 to A.3 were marked. On behalf of the respondents Copy of the Insurance Policy was marked as Ex.B.1.

8 On appreciation of the oral, documentary evidence and other material available on record, the Tribunal arrived at a conclusion that the accident occurred due to the rash and negligent driving of the driver of the bus bearing No.AP 9 Z 5315 which resulted in the death of the deceased and allowed the petition by awarding compensation of Rs.1,00,000/- with interest at 7.5% p.a from the date of filing of the petition till the date of realisation. Feeling aggrieved by the said judgment and award of the Tribunal, the respondent APSRTC preferred the present appeal.

9 Heard Ms. B.G. Uma Devi, learned Standing Counsel for the appellant/respondent – Corporation and Smt. K.Rajitha, learned counsel for the respondents/claimants.

10 Since the claim petition was filed under Section 163-A of the M.V. Act, the petitioners are not under any obligation to prove that the accident took place due to the rash and negligent driving of the driver of the bus. It is suffice that the petitioners could prove that the death took place in the motor accident.

11 The Tribunal by taking into consideration the age of the deceased as 10 years and also the fact that the petitioners being the parents of the deceased, who are entitled for a consortium, allowed the petition and awarded an amount of Rs.1.00 lakh as compensation to the petitioners.

12 Considering the facts and circumstances of the case and also the fact that the accident was of the year 2000, I see no grounds to interfere with the award passed by the Tribunal at this stage.

13 Accordingly, this appeal is dismissed. No order as to costs. Miscellaneous petitions, if any, shall stand dismissed.

T. AMARNATH GOUD, J

Date: 16.7.2019

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