

HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.1571 of 2012

JUDGMENT:

Appellant-Andhra Pradesh State Road Transport Corporation (APSRTC) filed this appeal against the award and decree dated 17-02-2012 passed in O.P.No.55 of 2011 of the Motor Accidents Claims Tribunal-cum-Principal District Judge, Ranga Reddy District at L.B.Nagar, Hyderabad, granting compensation of Rs.7,00,000/- to the claimants/respondent Nos.1 to 4, payable by the appellant, as against the claim of Rs.10,00,000/-, for the death of the deceased-M.Giri Babu.

2. The Respondents 1 to 4, who are the claimants-wife, children and parents of the deceased, respectively, filed claim petition under Section 166 read with Section 475 of Motor Vehicle Act, 1988, alleging that on 25-12-2010, when the deceased proceeding towards Hyderabad on his ambassador car bearing Regn. No.AP 9Y 1551 and when he reached near Balagram Eye Hospital, Nagarjuna Sagar Road, at about 11.20 pm, an RTC Bus bearing Regn. No.AP 28Z 3040 came in opposite direction with a high speed in a rash and negligent manner and dashed against his vehicle, and as a result of which, he sustained injuries and was shifted to Osmania General Hospital, Hyderabad, for treatment. While undergoing treatment, he succumbed to the injuries. Thus, the claimants claimed compensation of Rs.10,00,000/- on account of death of the deceased, payable by the appellant.

3. The appellant-APSRTC filed counter denying the averments made in the claim petition and contended that the accident did not take place in the manner in which it is alleged, that no accident took place involving bus bearing Regn. No.AP 28Z 3040 at the time it is alleged to be taken place and that the compensation claimed by the claimants is highly excessive and out of proportion. Therefore, the appellant is not liable to pay compensation.

4. The Tribunal, based on the evidence available before it, held that the accident occurred due to the rash and negligent driving of driver of the bus. It further held that the appellant is liable to pay compensation of Rs.7,00,000/- to the claimants.

5. Aggrieved by the said finding, the present appeal came to be filed by the appellant-APSRTC.

6. Heard.

7. Learned counsel for the appellant-APSRTC would contend that there was contributory negligence on the part of the deceased and the driver of the bus. Further, there is no proof of evidence with regard to the income of the deceased to take into account Rs.5,000/- per month and the compensation awarded by the Tribunal is highly excessive. Therefore, the impugned judgment of the Tribunal may be set aside.

8. Learned counsel for the respondent Nos.1 to 4 contends that the Tribunal has rightly granted compensation by taking into

account Rs.5,000/- per month as income and applying correct multiplier of '15' applicable for the age of 35 years. As per Medical Record, the age of the deceased at the time of death is 35 and that was why the Tribunal has taken multiplier as '15'. Therefore, the Tribunal has rightly awarded the compensation and it cannot be interfered with.

9. Insofar as the issue No.1 is concerned, in the light of the evidence of P.W.2, who is eye witness to the accident, it is clear that that the vehicle of the deceased and the bus, both collided in opposite direction and the driver of the bus was driving the vehicle in a rash and negligent manner.

10. Insofar as issue No.2 is concerned regarding granting compensation, according to the evidence of P.W.1, the income of the deceased was more than Rs.20,000/- per month. However, the Tribunal fixed the notional income as Rs.5,000/- per month in the absence of proof of income and accordingly applied multiplier as '15' treating the age as 40 years following the judgment of the Supreme Court in **Sarla Varma Vs. Delhi Transport Corporation**¹. Hence, there is no infirmity in the judgment of the Tribunal and both the issues are accordingly answered by the Tribunal in a right manner and it requires no interference.

11. Accordingly, the appeal is dismissed confirming the decree and judgment of the Tribunal. There shall be no order as to costs.

¹ (2009) 6 S.C.C. 121

12. Miscellaneous petitions pending in this appeal, if any,
shall stand closed.

JUSTICE T.AMARNATH GOUD

05.07.2019
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