

THE HON'BLE SMT. JUSTICE M.G. PRIYADARSHINI

M.A.C.MA. No.589 of 2019

JUDGMENT:

Aggrieved by the order and decree dated 20.12.2012 passed by the MACT-cum- District and Sessions Judge, at Adilabad, in O.P.No.104 of 2018, dated.27.02.2018, the appellants who are the Telangana State Road Transport Corporation preferred the present appeal.

2. The case of the claimants is that on 16.02.2018 the deceased was returning from Vaijapur Village to his village and when he reached near Waghapur cross road of Seethagodi Shivar on NH 44 road at about 5.05 p.m., one bus bearing no. AP.01.Z.0033 being driven by its driver came in rash and negligent manner and at high speed came and dashed the deceased, due to which the deceased suffered head injury and other injuries all over his body and died on the spot. Police after investigation filed Charge Sheet against the RTC bus driver.

3. The respondents therein filed counter affidavit and denied the averments made in the claim petition.

4. Basing on the pleadings, the Tribunal framed the following issues for trial;

1. Whether the accident took place as alleged by the petitioners on 16.02.2018 at about 5.05 p.m., on N.H.No.44 road, near Waghapur x-road of Seethagondi shiva, resulting the death of the deceased Kohachada Shyam Rao on account of rash and negligent driving by the driver of bus bearing No. A.P.01.Z.0033 belonging to second respondent or whether there was any negligence on the part of the deceased?
 2. Whether there was any insurance coverage for the bus bearing No. A.P.01.Z.0033 and if so, does the policy cover the risk of deceased and if so, was there any breach of policy condition alleged by the respondent?
 3. What were the age, avocation and the earning of the deceased?
 4. Whether the petitioners are entitled to any composition, if so, to what extent and against whom?
 5. To what relief?
5. In order to prove the issues, on behalf of the petitioners, petitioner No.1 was examined as PW-1 and one eyewitness also examined as Pw-2 and got marked Exs.A1 to A5. The respondents did not adduce any oral or documentary evidence on their behalf.
6. On considering the entire evidence available on record, the Tribunal awarded the compensation of Rs.6,91,300/- together with costs and interest @9% per annum from the date of filing claim petition till the date of deposit or realization against the respondents jointly and severally.

7. Heard the learned Standing counsel for the appellants-Corporation and the learned Counsel for the respondent Nos.1 and 2-claimants. Perused the material available on record.

8. The learned Standing Counsel for the appellants-Andhra Pradesh State Road Transport Corporation submitted that the Order and decree passed by the Tribunal is contrary to law and against the facts of the case and evidence on record and the quantum of compensation awarded by the Tribunal is excessive and arbitrary and therefore, prays to allow the appeal.

9. The learned counsel for the respondents-claimants has submitted that the Tribunal after considering the entire evidence available on record has adequately granted the compensation and the same needs no interference by this Court and therefore, prays to dismiss the appeal.

10. A perusal of the material available on record, discloses that petitioner No.1 herself got examined as PW-1, in her chief examination, and reiterated the contents of the petition. PW-2 who is the eye-witness to the accident deposed that on 16.02.2018 at about 5 p.m., an RTC bus bearing No.AP.01.Z.0033 driven by its driver in rash and negligent

manner and with high speed and dashed the deceased near Waghapur cross road, due to which the deceased suffered head injury and died on the spot. No contra evidence was elicited in his cross-examination to discredit his testimony. Therefore, considering the evidence of PWs.1 and 2 coupled with the documentary evidence available on record, the Tribunal rightly held that the accident was occurred due to the rash and negligent driving of the driver of RTC bus bearing No.AP.01.Z.0033 and as a result of which, the deceased Kohachade Shyam Rao died due to blunt injuries to perineum resulted in accident. Therefore, the contention of the counsel for the appellant cannot be considered.

11. With regard to the quantum of compensation is concerned, according to the petitioners, the deceased was hale and healthy at the time of accident, he was aged 44 years and was earning Rs.1,50,000/- per annum by doing agriculture and was contributing the same for the welfare of the petitioners, who are totally depending on him, but in view of his untimely death in the accident, the petitioners not only lost their dependency, but also lost his love and affection besides sufferance of physical and mental agony, considering all the aspects, the Tribunal rightly awarded an amount of

Rs.6,91,300/- under various heads, i.e., compensation for 'loss of dependency' Rs.4,56,300/-, 'loss of consortium to wife' Rs.1,00,000/-, 'loss of old age support to mother' Rs.1,00,000/-, 'compensation towards transport charges Rs.5,000/-, 'compensation under the head of loss of estate Rs.5,000/-, compensation for funeral and obsequies' Rs. 25,000/-, totalling Rs.6,91,300/-. Hence, there are no grounds to interfere with the cogent findings given by the Tribunal and the appeal is liable to be dismissed.

12. In the result, the M.A.C.M.A. is dismissed. There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

JUSTICE M.G. PRIYADARSHINI, J

Date: 13.10.2022
AQS/PKR