

HONOURABLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A.Nos.2646 of 2015 and 1689 of 2016

COMMON JUDGMENT:

These two appeals are being disposed of by this common judgment since M.A.C.M.A.No.2646 of 2015 filed by the Andhra Pradesh State Road Transport Corporation challenging the quantum of compensation and M.A.C.M.A.No.1689 of 2016 filed by the claimants seeking enhancement of compensation, are directed against the very same award and decree, dated 11.03.2015 made in M.V.O.P.No.2583 of 2013 on the file of the Chairman, Motor Vehicle Accident Claims Tribunal-cum-XIV Additional Chief Judge (Fast Track Court), City Civil Courts, Hyderabad (for short “the Tribunal”).

2. For the sake of convenience, hereinafter the parties will be referred to as per their array before the Tribunal.

3. The facts, in issue, are as under:

The claimants filed a petition under Section 166 of the Motor Vehicles Act, 1988 against the respondents 1 and 2, claiming compensation of Rs.15,00,000/- for the

death of one V.Narsimha (hereinafter referred to as “the deceased”), who died in the accident that occurred on 18.08.2013. According to the claimants, on 18-08-2013 at about 8-30 p.m., while the deceased was proceeding on his motorcycle bearing No. AP.24.AW.1141 from Abdullapurmet village towards Pochampally slowly on the extreme left side of the road and when he reached near Sai Baba Temple, Piklipur village limits, one RTC Bus bearing No. AP.28.Z.4917 of Dilsukhnagar Depot came from opposite direction proceeding from Pochampally towards Dilsukhnagar being driven by its driver in rash and negligent manner with high speed in wrong side and dashed the motorcycle of the deceased. Due to the said impact, the deceased V.Narsimha sustained severe head injury apart from other injuries. Immediately after the accident, the deceased was taken to Sun Rise Hospital and from there he was shifted to Osmania General Hospital and was succumbed to injuries while undergoing treatment on 19.08.2013. According to the claimants, the deceased was working as Heavy Transport Vehicle driver and earning Rs.15,000/- per month and Rs.250/- per day as batta.

Therefore, they laid the claim against the respondents-Corporation seeking compensation of Rs.15,00,000/- under different heads.

4. Before the Tribunal, both the respondents filed counter denying the averments in the claim-petition including the manner in which the accident took place, age, avocation and income of the deceased. It is further contended that the compensation claimed is excessive and exorbitant and prayed to dismiss the claim-petition.

5. Based on the above pleadings, the Tribunal framed the following issues:

1. *Whether the pleaded accident had occurred resulting in death of the deceased V.Narsimha, due to the rash and negligent driving of the motor vehicle (APSRTC Bus bearing No. AP 28 Z 4917) by its driver?*
2. *Whether the petitioners are entitled to any compensation and if so, at what quantum and what is the liability of the respondents?*
3. *To what relief?*

6. In order to prove the issues, PWs.1 and 2 were examined and Exs.A1 to A10 were marked on behalf of the

petitioners. On behalf of the respondents, no witnesses were examined and no document was marked.

7. After considering the oral and documentary evidence available on record, the Tribunal held that the accident occurred due to the rash and negligent driving of the RTC bus and awarded the total compensation of Rs.11,35,000/- to be paid by the respondent Nos.1 and 2 jointly and severally. Challenging the same, the present Appeals came to be filed by the Andhra Pradesh State Road Transport Corporation and the claimants respectively.

6. Heard the learned counsel on both sides and perused the material available on record.

7. The main contention raised by the learned Standing Counsel for the respondents-Corporation is that there is collision between two vehicles and the Tribunal committed serious irregularity in holding that there is no contributory negligence on the part of the motorcyclist and came to a wrong conclusion that the accident occurred only due to the rash and negligent driving of the RTC bus. It is further

contended that the compensation claimed is excessive and prays to set aside the Order passed by the Tribunal.

8. Per contra, learned Counsel for the appellants has submitted that though the claimants established that the deceased was a Heavy Transport Vehicle driver and earning Rs.15,000/- per month and Rs.250/- per day as batta, the Tribunal has awarded very meager amount.

9. With regard to the manner of accident, PWs.1 and 2 clearly stated that the accident occurred due to the rash and negligent driving of the driver of the RTC bus. Even as per the charge sheet also, it is very clear that the accident occurred due to the rash and negligent driving of the driver of the offending vehicle. Further there is no rebuttal evidence produced by the respondents-Corporation to prove the contributory negligence. Therefore, the Tribunal after evaluating the evidence of PWs.1 and 2 coupled with the documentary evidence available on record, rightly held that the accident occurred due to the rash and negligent driving of the driver of the RTC bus. Therefore, I see no

reason to interfere with the findings given by the Tribunal with regard to the manner of accident.

10. With regard to the quantum of compensation, although the claimants stated that the deceased was Heavy Transport Vehicle driver and earning Rs.15,000/- per month and Rs.250/- per day as batta, since there is no income proof, the Tribunal has taken the annual income of the deceased at Rs.60,000/-, which is very less. Thus, the income of the deceased can be taken at Rs.7,000/- per month. Further the claimants are entitled to addition of 40% towards future prospects to the established income, as per the decision of the Apex Court in ***National Insurance Company Limited Vs. Pranay Sethi and others***¹. Therefore, future monthly income of the deceased comes to Rs.9,800/- (Rs.7,000/- + Rs.2,800/- being 40% thereof). From this, 1/3rd is to be deducted towards personal expenses of the deceased following ***Sarla Verma v. Delhi Transport Corporation***² as the dependents are

¹ 2017 ACJ 2700

² 2009 ACJ 1298 (SC)

three in number. After deducting 1/3rd amount towards his personal and living expenses, the contribution of the deceased to the family would be Rs.6,533/- per month. Since the deceased was 26 years by the time of the accident, the appropriate multiplier is '17' as per the decision reported in ***Sarla Verma v. Delhi Transport Corporation*** (supra). Adopting multiplier '17', the total loss of dependency would be Rs.6,533/- x 12 x 17 = **Rs.13,32,732/-**. In addition thereto, the claimants are also entitled to **Rs.77,000/-** under the conventional heads as per **Pranay Sethi's** (supra). Further considering Ex.A9 medical bills which shows that the petitioners spent an amount of Rs.43,451.62 ps for treatment of the deceased prior to his death, the Tribunal also awarded an amount of **Rs.40,000/-** towards medical expenses, which is reasonable and as such, the same is not disturbed. Thus, in all the claimants are entitled to **Rs.14,49,732/-**.

12. Accordingly, while dismissing M.A.C.M.A.No.2646 of 2015 filed by the Andhra Pradesh State Road Transport Corporation, M.A.C.M.A.No.1689 of 2016 filed by the

claimants is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.11,35,000/- to **Rs.14,49,732/-**. The enhanced amount shall carry interest at 7.5% per annum from the date of the order passed by the Tribunal till the date of realization, payable by respondent Nos.1 and 2 jointly and severally. The enhanced amount shall be apportioned in the manner as ordered by the Tribunal. Time to deposit the compensation is one month from the date of receipt of a copy of this order. There shall be no order as to costs.

13. Miscellaneous petitions, if any, pending shall stand closed.

10.11.2022
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M.G.PRIYADARSINI,J