

THE HON'BLE SRI JUSTICE PULLA KARTHIK

M.A.C.MA. No.652 of 2019

JUDGMENT:

This Motor Accidents Civil Miscellaneous Appeal is filed by the TSRTC, challenging the award and Decree passed in MVOP No.906 of 2017, dated 14.02.2019 on the file of the Motor Accidents Claims Tribunal-cum (District Judge at Khammam), (for short "the Tribunal"), wherein, the Tribunal awarded compensation of Rs.10,33,900/- on account of death of Chinna Pongu Sandhya in a motor vehicle accident that occurred on 25.04.2017.

2. The case of the respondent/petitioner is as follows:

That on 25.04.2017 at about 6.00 AM the deceased and others were travelling in auto trolley bearing No. AP 20 X 8623 from Jeelacheruvu village to Ponnakal village to attend coolie work and when they reached near Thallampadu village, the driver of TSRTC bearing No. AP28 Z 5723 of Madhira Depot drove the bus in a rash and

negligent manner in opposite direction hit the auto of deceased. Resultantly, the deceased and other inmates of the auto trolley suffered injuries and the deceased died on the spot.

3. It is pleaded that at the time of accident the deceased was aged 28 years and she was a coolie and was earning Rs.12,000/- per month. It is further pleaded that on account of death of the deceased, the petitioners have been deprived of the contribution of the deceased.

4. The appellant corporation filed counter and disputed the manner of accident as narrated by the respondent herein and involvement of RTC bus, rash and negligence on part of the driver of the RTC bus and further disputed the age, avocation, earnings of the deceased. It is further pleaded that the accident was result of sole negligence of auto trolley, under which the deceased was travelling along with other inmates, as it was carrying overload of passengers, as such, the corporation is liable to pay the compensation.

5. Basing on the pleadings the following issues were framed for consideration by the Tribunal:

1. Whether the accident is occurred due to rash and negligent act of driver of the RTC bus bearing No. AP 28 Z 5723 and resulting in the death of Chinnapongu Sandhya?
2. Whether the petitioners are entitled for claim of compensation as prayed? If so, to what quantum, and from which of the respondents?
3. To what relief?

6. The respondents to support their case examined PW1 and 2 and relied upon Ex.A1 to A5. The appellant was examined as RW1.

7. On considering the material on record, the Tribunal had passed an award of Rs.10,33,900/- compensation as stated below:

1. Loss of dependency Rs.9,63,900/-
($6300 \times 12 = 75600 / 4 = 18900$
 $75600 - 18900 = 56700 \times 17$)

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2.	Funeral expenses	Rs.15,000
3.	Consortium	Rs.40,000
4.	Loss of estate	Rs.15,000
	Total	Rs.10,33,900/-

8. Heard both sides.

9. The appellant contends that the Tribunal grossly erred in allowing the petition awarding compensation of Rs.10,33,900/- for the death of Chinna Pongu Sandhya. It is further contended that the learned Tribunal had failed to consider the evidence of RW1, who was the driver of the bus bearing No. AP28 5723 categorically stated that there is no negligence on the part of their bus, but the accident was caused due to sole negligence of the auto trolley bearing No.AP20 8623 who dashed against the right side of the bus bearing No.AP28 Z 5723 without observing the other vehicles on the road and hit their bus.

10. It is further contended that Tribunal without any cogent evidence erroneously fixed the monthly income as

Rs.4,500/- per month and have added 40% of the income towards future prospects, when the income is not proved.

11. The respondent contends that the Tribunal had rightly passed an award basing on the oral and documentary evidence on record and there is no error in the order and further prayed to dismiss the appeal.

12. This Court has taken note of the submissions made by the respective parties.

13. As per the evidence of PW1, who is an eye witness to the accident and as per Ex.A2/charge sheet, the Tribunal rightly held that the accident was occurred due to negligence of bus driver only. Though the respondent/petitioner claimed that the deceased was a coolie and earning Rs.12,000/- per month, as there is no proof as to the earning, the Tribunal on considering the minimum wages payable to normal coolie with reference to the date of accident, a sum of Rs.4,500/- is fixed as monthly income. As per the apex court judgment in

Ramachandrappa's case, the labour is entitled for Rs.4,500/- as monthly income. Though the respondents/petitioners claim that the deceased was aged 28 years, no age proof is filed. The Tribunal had taken into consideration for fixing the age of the deceased Ex.A3 i.e. PME report, which shows that the age of the deceased as 30 years. As the deceased was self employed and below 40 years of age, an addition of 40% shall be given in addition to established income towards future prospects, as per the apex court judgment in National Insurance Company Vs. Pranay Sethi's case. In view of the above, this Court does not see any error in the order of the Tribunal and is devoid of merits. Accordingly appeal is liable to be dismissed.

14. The Motor Accidents Civil Miscellaneous Appeal is dismissed. There is no order as to costs.

Pending miscellaneous petitions, if any, in this MACMA shall stand closed.

JUSTICE PULLA KARTHIK

Date: 23.09.2022
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