

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER  
AND  
THE HON'BLE SRI JUSTICE NAGESH BHEEMAPAKA

M.A.C.M.A.No.1464 OF 2015

**JUDGMENT** (Per Hon'ble Dr. Justice Shameem Akther)

This appeal, Under Section 173 of the Motor Vehicles Act, 1955, is filed by the appellants/RTC, challenging the judgment, dated 13.06.2014, passed in MVOP No.286 of 2012, by the XIII Additional District Judge, Ranga Reddy District at L.B.Nagar, whereby, on a petition filed by the respondents/claimants Under Section 166 of Motor Vehicles Act, 1988 and Rules 475/1b of A.P.M.V.Rules, 1989, read with Section 163A, 140(c) of A.P.M.V.Act, 1988, claiming compensation of Rs.25,00,000/- for the death of Kum.S.Swarna Latha in a motor vehicle accident that occurred on 12.02.2012 at Kukatpally Housing Board, Opposite to JNTU, the Court below awarded a compensation of Rs.30,17,000/-together with interest @ 7% per annum from the date of petition till the date of recovery. The Court below also apportioned the awarded compensation among the respondents/claimants.

2. We have heard the submissions of Sri E.Ganesh, learned counsel appearing for the appellants/RTC, Sri K.Sankarayya,

learned counsel for the respondents/claimants and perused the record.

3. Learned counsel appearing for the appellants/RTC would submit absolutely there is no evidence on record to substantiate rashness and negligence on the part of the driver of the RTC bus bearing registration No.AP-11-Z-7301 in the occurrence of the subject accident. However, the Court below erroneously held that the driver of the subject RTC bus was responsible for occurrence of the subject accident and death of the daughter of respondent Nos.1 and 2/claimants by name Kum.S.Swarna Latha. The Court below ought not placed reliance on Ex.A35- Offer Letter issued by Arenelife Science Limited, dated 06.02.2012, without examining the person who issued the said certificate or any employee from the said company to prove the contents of the same. Thus, granting compensation of Rs.28,35,000/- towards loss of dependency is without any basis. The impugned order passed by the Tribunal is erroneous and is liable to be set aside and, accordingly, prayed to allow the appeal by setting aside the order under challenge.

4. On the other hand, learned Counsel for the respondents/claimants would contend that the deceased by name Kum

S.Swarna Latha was a meritorious B.Pharmacy graduate. Several documents were filed before the Tribunal to substantiate her educational qualifications. There is also substantial evidence of PW.1/father of the deceased to that effect. The deceased was selected to work as Assistant Quality Controller in M/s.Arenelife Science Ltd through campus selection. In view of the age of the deceased, the Tribunal rightly applied multiplier '18' and rightly granted Rs.28,35,000/- towards loss of dependency. The Tribunal is also justified in granting compensation on other conventional heads. There are no circumstances to interfere with the order under challenge. The submissions made by the learned counsel for the appellants/RTC are untenable and ultimately prayed to dismiss the appeal.

5. In view of the above rival contentions, the point that arises for determination in this appeal is as follows:

*"Whether there was negligence on the part of the driver of the RTC bus bearing registration No.AP-11-Z-7301 in causing the subject accident and death and whether tribunal is justified in granting compensation of Rs.28,35,000/- to the respondents/claimants under the head loss of dependency, placing reliance of Ex.A35– Offer Letter issued by M/s.Arenelife Science Limited, dated 06.02.2012."*

6. As seen from the material placed on record, PW.1 is the father of the deceased. He deposed that the deceased was selected for the post of Assistant Quality Controller in M/s.Arenelife Science Limited with an offer of annual salary of Rs.2,10,000/- and that she was very bright in the academics and career oriented and that she was very active and has got foresight and vision about her career. However, PW.1 is not eyewitness to the subject accident. PW.2 is an eye witness to the subject accident. She deposed that while she along with the deceased were crossing the road, an RTC bus, driven by its driver in rash and negligent manner, hit against her friend and ran over her. She categorically deposed that the subject accident occurred solely due to the rashness and negligent driving of the driver of the RTC bus bearing registration No.AP-11-Z-7301.

7. The Court below, placing heavy reliance on Ex.A35–Offer Letter issued by M/s.Arenelife Science Limited, granted compensation of Rs.28,35,000/- towards loss of dependency. Here, it is apt to state that mere marking of Ex.A35-Offer Letter issued by Arenelife Science Limited, dated 06.02.2012, is not sufficient to prove its contents. It was incumbent upon the

respondents/ claimants to examine the person who issued Ex.A35 or any person from the said Company to prove the contents of the said document, which afford an opportunity to the other side to cross-examine him/her. Here, it is apt to state that if the truth of the facts stated in a document is in issue, the same should be proved by admissible evidence, i.e., by the evidence of those persons who can vouchsafe for the truth of the facts in issue. Admission of documents under Order XIII Rule 4 of CPC does not bind the parties and unproved documents cannot be regarded as proved nor do they become evidence in the case without formal proof. The legal position is not in dispute that mere production and marking of a document as exhibit by the Court cannot be held to be a due proof of its contents. Its execution has to be proved by admissible evidence, i.e., by the evidence of those persons who can vouchsafe for the truth of the facts in issue. In the instant case, non-examination of the person who issued Ex.A35 or any person concerning the said document to prove the contents of the same renders Ex.A35 is fatal. The Court below cannot be permitted to assume that the contents of Ex.A35 are genuine, without proving the contents of the said documents by examining the concerned person. Therefore, in our view, the Court below

erred in placing reliance over Ex.A35 in granting compensation under the head loss of dependency.

8. As regards the issue of occurrence of the subject accident, there is ample evidence on record to substantiate that the subject accident occurred due to rash and negligent driving of the driver of RTC bus bearing registration No.AP-11-Z-7301 and there is nothing to take a different view.

9. In view of the foregoing discussion, since Ex.A35-Offer Letter issued by Arenelife Science Limited, dated 06.02.2012 was not proved in accordance with law, we deem it appropriate to remit the case to be Court below with a direction to dispose of the subject MVOP, in accordance with law.

10. Accordingly, the appeal is allowed by setting aside the order, dated 13.06.2014, passed in MVOP No.286 of 2012 by the XIII Additional District Judge, Ranga Reddy District at L.B.Nagar.

The matter is remitted to the Court below with a direction to dispose of the subject MVOP No.286 of 2012 afresh, in accordance with law, expeditiously, within three (3) months from the date of receipt of a copy of this judgment. However,

the Court below shall not insist for refund of the amount already withdrawn by the respondents/claimants, which shall be subject to the final result of the subject MVOP No.286 of 2012.

Miscellaneous petitions, if any, pending, in this appeal, shall stand closed. There shall be no order as to costs.

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Dr. SHAMEEM AKTHER, J

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NAGESH BHEEMAPAKA, J

29<sup>th</sup> November, 2022  
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