

HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A. No.2004 of 2015

JUDGMENT:

Assailing the order dated 07.03.2014 in O.P.No.529 of 2011 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-District Judge, Nizamabad, this appeal is filed by the respondent Nos.1 and 2-Andhra Pradesh State Road Transport Corporation.

2. For the sake of convenience, the parties have been referred to as arrayed before the Tribunal.

3. According to the petitioners, on 15.12.2010 Sabavath Somla Naik was returning to his village Munigepally on his bicycle after selling vegetables and when he reached the outskirts of Munigepally village at about 8-00 p.m., a bus bearing No. AP.28.Z.1103 belonging to respondents-Corporation being driven by its driver in rash and negligent manner at high speed came from his behind and dashed him and the front tyre ran over him. Due to which, Somla Naik sustained injuries all over the body and died on the spot.

4. Respondent Nos.1 and 2-Corporation filed counter disputing the manner of accident, age, avocation and income of the deceased and further contended that the compensation claimed by the petitioners is highly excessive.

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

- 1) Whether the accident has taken place due to rash and negligent driving of APSRTC Bus bearing No. AP.28.Z.1103 by its driver?
- 2) Whether the petitioners are entitled to claim compensation, if so, what amount and from which of the respondents?
- 3) To what relief?

6. In order to prove the issues, on behalf of the petitioners, PWs.1 and 2 were examined and got marked Exs.A1 to A8. On behalf of the respondents-Corporation, RW-1 was examined and got marked Ex.B1.

7. On considering the entire evidence available on record, the Tribunal awarded the compensation of Rs.8,15,000/- together with costs and interest @ 7.5% per annum from the date of petition till realization against both the respondents jointly and severally.

8. Heard the learned Standing counsel for the appellants- Andhra Pradesh State Road Transport Corporation and the learned Counsel for the respondent Nos.1 to 5-claimants. Perused the material available on record.

9. The learned Standing Counsel for the appellants-Corporation vehemently argued that the Order and decree passed by the Tribunal is contrary to law and against the facts of the case and evidence on record. The Tribunal committed a serious irregularity in holding that the accident occurred due to the rash and negligent driving of the driver of the bus bearing No. AP.28.Z.1103 without there being any acceptable evidence on record and the amount awarded by the Tribunal is excessive and therefore, prays to allow the appeal.

10. 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.

11. A perusal of the material available on record, petitioner No.1 herself got examined as PW-1 and reiterated the contents of the petition. Further PW-2 in his evidence deposed that on 15.12.2010 at 8-00 p.m. he was proceeding in his auto from Nizampet to his village and when he reached the outskirts of Munigepally village, he found one RTC bus dashing a cyclist from backside and the bus was stopped and passengers got down. He also found one person under the front tyre of the bus and identified him as the deceased Sabavath Somla Naik who belongs to his Thanda. Though the driver of RTC bus who was examined as RW-1 deposed that there was no rash or negligence on his part in driving the bus, rider of the bicycle fell on his own and suffered injuries, the Tribunal has not given any weight to his evidence by considering him as interested witness. Further the police also filed charge sheet against the driver of the RTC bus bearing No. AP.28.Z.1103 after thorough investigation. Therefore, the learned trial judge after considering the evidence of PWs.1 and 2 coupled with the documentary evidence available on record, has rightly held that the accident occurred due to the rash and negligent driving of the driver of RTC bus bearing No. AP.28.Z.1103 as a

result of which, the deceased Sabavath Somla Naik died. Therefore, the contention of the counsel for the appellants-Corporation cannot be considered.

12. With regard to the quantum of compensation is concerned, according to the petitioners, the deceased was having Ac.4-14 gts. of agriculture land and with the help of bore well, he was earning Rs.12,000/- per month. However, as the petitioners failed to produce any evidence to that effect, the Tribunal had rightly taken the income of the deceased at Rs.5,000/- per month, deducted 1/4th of it towards personal expenses and awarded an amount of Rs.8,15,000/- to the petitioners under various heads. Hence, there are no grounds to interfere with the cogent findings given by the Tribunal and the appeal is liable to be dismissed.

13. 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.

M.G.PRIYADARSINI,J

23.09.2022

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