

THE HONOURABLE SMT. JUSTICE P.SREE SUDHA

APPEAL SUIT No.2354 of 1999

JUDGMENT:

This appeal is filed against the Judgment and decree of the trial Court in O.S.No.3 of 1996 dated 18.01.1999.

2. Suit is filed by the plaintiffs for recovery of damages with interest and costs against the State of Andhra Pradesh represented by the District Collector, Warangal. The case of the plaintiffs is that deceased Mohd.Yakub Ali is the husband of the first plaintiff and father of the other plaintiffs in the suit. He was working as a driver and owner of the lorry bearing No.AAT/2525 and his son Monsoor Ali as a cleaner of the lorry. On 29.11.1994 the said lorry was assigned for escorting the then Minister for Municipal Affairs but it was blasted by the extremists of Peoples War Group near Oorugonda bus stage by the land-mine. The husband of the first plaintiff and her son died in the said blast and lorry was damaged. A case in Cr.No.120 of 1994 was registered by the Athmakur Police. The Government/defendant paid Rs.1,00,000/- to each of the deceased as exgratia, but they have not paid damages of the lorry. The value of the lorry was Rs.2,40,000/- at the time of

incident. Both the deceased were earning about Rs.15,000/- per month by plying the lorry on hire and collectively contributing Rs.5,000/- for the dependents and spending Rs.10,000/- for the maintenance of the lorry. They could have contributed Rs.60,000/- per year to the family. The deceased Md. Yakub Ali was aged 50 years and his son was 18 years at the time of incident, as such they are claiming compensation of Rs.10,00,000/- as the Government already paid Rs.2,00,000/- towards exgratia, claiming for grant of Rs.8,00,000/- out of which Rs.5,60,000/- is claiming towards damages for loss of earnings etc., and Rs.2,40,000/- towards loss of lorry bearing No.AAT/2525.

3. The trial Court examined wife of the deceased as P.W.1 and marked Exs.A1 to A6 and also examined D.W.1. After considering evidence of both sides, arguments and citations filed before the Court, suit was decreed for Rs.5,75,000/- with costs and interest at the rate of 6% per annum from the date of filing of the suit till the date of realization. Aggrieved by said order present appeal is preferred.

4. The learned Counsel for the appellant contended that plaintiffs failed to prove the value of the lorry and the trial Court erred in granting damages to the tune of Rs.1,75,000/-. The State has already paid exgratia to the deceased at the rate of Rs.1,00,000/- to each of them, as such they are not entitled for any further damages. The amount granted by the trial Court is excessive without any basis. Therefore, requested the Court to set aside the Judgment and decree of the trial Court.

5. Record is not available with the Court, as this matter is pertaining to the year 1999, heard arguments of appellant Counsel but the respondent Counsel is absent, as such it is treated as there is no argument on behalf of the respondent Counsel and reserved for Judgment.

6. The learned Counsel for the appellant mainly argued that without any evidence on record the trial Court erred in granting Rs.1,75,000/- towards damages of the lorry. At the time of incident the value of lorry was not Rs.2,40,000/- as claimed by plaintiffs. He also argued that there is no evidence on record to establish the price of the lorry but the trial Court in the Judgment observed basing on the evidence of P.W.1 made its

own presumption in the interest of justice and assessed value of lorry as Rs.1,75,000/-.

7. Admittedly, the husband and son of the first plaintiff were died in a blast and the lorry was also damaged beyond repairs. Plaintiff No.1 who is examined as P.W.1 is not aware of the other details of lorry and Court cannot expect the date of purchase, make of lorry and price of the lorry from her after the death of her husband. Admittedly, State engaged the lorry for escorting then Minister for Municipal Affairs. When the deceased husband and son of the first plaintiff were on duty during the course of employment they died in a blast and admittedly the lorry was also damaged. The State is opposing the assessment of the lorry made by the trial Court stating that amount granted was excessive but they have not filed any document, in fact record is not available on the file of this Court, as such after long lapse of time this Court finds no reason to interfere with the order of the trial Court. Plaintiff No.1 is the wife and other plaintiffs are children of the deceased No.1 and their main livelihood is the lorry on which husband of P.W.1 was working as driver and son as cleaner and the same was damaged in a blast. The trial Court considering the

evidence of P.W.1 and the prevailing rate at that time rightly arrived to the conclusion and granted Rs.1,75,000/- and this Court finds no reason to interfere with the said order. Therefore, appeal devoid of merits and is dismissed. As the suit is filed in the year 1996 and appeal is preferred in the year 1999, appellant is directed to deposit the amount with interest within three months from the date of this Judgment, on such deposit respondents are permitted to withdraw the same.

In the result, appeal is dismissed confirming the Judgment and decree of the trial Court in O.S.No.3 of 1996 dated 18.01.1999. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE P.SREE SUDHA

DATED: 26.12.2022

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