

THE HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.No.1365 of 2015

JUDGMENT:

Aggrieved by the award and decree dated 27.11.2014, passed by the Motor Accident Claims Tribunal – cum – the court of the Chief Judge, City Civil Court, Hyderabad in MVOP.No.441 of 2013, the then Andhra Pradesh State Road Transport Corporation (for short 'the Corporation') filed the present appeal.

2. The case of the claimants is that on 16.12.2012 at about 11.20 am., while the deceased was proceeding on a motor cycle as pillion rider from Chandrayangutta to Pahadishareef, and when the motor cycle reached CRPF Gate, bus of the Corporation bearing No. AP 28Z 4763 driven by its driver in a rash and negligent manner, dashed the motor cycle, due to which the deceased sustained grievous injuries and was shifted to Osmania General Hospital, and while undergoing treatment he succumbed to injuries. Police registered a case against the driver of the bus of the Corporation in Cr.No.376 of 2012.

3. The further case of the claimants is that the deceased was aged 19 years at the time of accident and he was hale and healthy and was a student and by giving tuitions, he was earning an amount of Rs.6,000/- per month and was contributing the entire earnings to the family. With these averments, they filed claim petition, claiming an amount of Rs.6,00,000/-.

4. The Corporation filed counter affidavit and denied the manner accident pleaded by the claimants, and also disputing the age, avocation and further contending that the compensation claimed was excessive, sought for dismissal of the claim petition.

5. The Tribunal granted the following amounts:

- | | | |
|-----------------------|----|-------------------|
| 1. Loss of dependency | -- | Rs. 3,60,000 - 00 |
| 2. Funeral expenses | -- | Rs. 10,000 - 00 |
| 3. Loss of estate | -- | Rs. 10,000 - 00 |

Rs.3,80,000 – 00

6. Heard the counsel for the appellants – Corporation and the learned counsel for the claimants and perused the material available on record.

7. The deceased is Syed Sohail Ali, and the claimants are his parents.

8. P.W.1 is the father of the deceased and he was not an eye witness to the accident. The Tribunal considering Ex.A-1 and A-2, which are certified copies of FIR and Charge Sheet, and in the absence of any rebuttal evidence, recorded finding of fact that the accident occurred due to rash and negligent driving of the driver of the bus of the corporation and accordingly held that the Corporation represented by respondents 1 and 2 before the Tribunal, were liable to pay the compensation. In this appeal also, the Corporation has not pointed out any contra evidence to interfere with this finding recorded by the Tribunal.

9. Coming to quantum, the case of the claimants is that the deceased was aged 19 years and was earning an amount of Rs.6,000/- per month by giving tuitions. To prove their

claims, they examined P.Ws.2 and 3, who deposed that deceased was giving tuitions to their children and that they were paying an amount of Rs.200/- and Rs.300/- respectively to the deceased. But it is to be seen that except the oral evidence, the claimants have not produced any documentary evidence. As per the bona fide certificate of the deceased marked as Ex.A-6, the deceased was aged 17 years and was studying intermediate. Considering these facts and circumstances, the Tribunal, in my considered view, has rightly taken his income as Rs.4,000/- per month and hence, no interference is warranted.

10. Further, as the deceased was a bachelor, the Tribunal deducted 50% towards expenses and arrived at Rs.24,000/- as the annual income of the deceased. As stated above, the deceased was found to be aged 17 years, as per Ex.A-6 bona fide certificate and the appropriate multiplier for the said age group is 18, but the Tribunal has applied the multiplier of 15. Further, as per the judgments of the Apex Court, the claimants are entitled to future prospects, Rs.33,000/- under conventional heads and Rs.40,000/- towards loss of

filial consortium. But it is to be seen that the Tribunal has taken the income of Rs.4,000/- even in the absence of any documentary evidence and hence this court is not inclined to interfere with the amounts awarded by the Tribunal.

11. For the foregoing reasons, I do not find any merit in the appeal and the same is accordingly dismissed, confirming the impugned award.

As a sequel thereto, miscellaneous applications, pending, if any, shall stand closed. No order as to costs.

JUSTICE M.G.PRIYADARSINI

30.11.2022
avs/nsp