

HONOURABLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A.Nos.502 of 2015 and 833 of 2015

COMMON JUDGMENT:

These two appeals are being disposed of by this common judgment since M.A.C.M.A.No.502 of 2015 filed by the claimants seeking enhancement of compensation and M.A.C.M.A.No.833 of 2015 filed by the respondent Nos.1 and 2-Andhra Pradesh State Road Transport Corporation challenging the quantum of compensation, are directed against the very same award and decree, dated 16.07.2014 made in M.V.O.P.No.1678 of 2012 on the file of the Chairman, Motor Vehicle Accident Claims Tribunal-cum-Chief Judge, City Civil Courts, Hyderabad (for short “the Tribunal”).

2. For the sake of convenience, hereinafter the parties will be referred to as per their array before the Tribunal.

3. The facts, in issue, are as under:

The claimants filed a petition under Section 166 of the Motor Vehicles Act, 1988 against the respondents 1 and 2, claiming compensation of Rs.17,50,000/- for the

death of one A.Srikanth Reddy (hereinafter referred to as “the deceased”), who died in the accident that occurred on 12.11.2011. According to the claimants, on 12.11.2011 at about 18-00 hours while the deceased was proceeding with his friend Karthik Reddy on Bajaj Pulsar motorcycle bearing No. AP 28 CA 8514 from Nilevally site Ameenpur, R.C.Puram towards Jagadgirigutta and on the way when he reached near Miyapur vegetable market in front of Hyderabad Timber Depot, at the same time, one APSRTC Bus bearing No. AP 11 Z 7158 being driven by its driver came from his back side in a rash and negligent manner at high speed and dashed the motorcycle of the deceased, due to which the deceased-A.Srikanth Reddy fell down on the road along with motorcycle and sustained grievous injuries to his head and left hand and died on the spot. According to the petitioners, the deceased was a Supervisor in Janapriya Nile Valley, Ameenpur Village, R.C.Puram, Medak District and was drawing Rs.13,000/- per month. Therefore, they are seeking compensation of Rs.17,50,000/- against the respondent Nos.1 and 2-Corporation under different heads.

4. Before the Tribunal, both the respondents filed counter denying the averments in the claim-petition including the manner in which the accident took place, age, avocation and income of the deceased. It is further contended that the compensation claimed is excessive and exorbitant and prayed to dismiss the claim-petition.

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

1. *Whether the pleaded accident had occurred resulting in the death of the deceased A.Srikanth Reddy, due to the rash and negligent driving of the motor vehicle (APSRTC Bus bearing No. AP 11 Z7158) by its driver?*
2. *Whether the petitioners are entitled to any compensation and if so, at what quantum and what is the liability of the respondents?*
3. *To what relief?*

6. In order to prove the issues, PWs.1 to 3 were examined and Exs.A1 to A8 and Exs.X1 to X3 were marked on behalf of the petitioners. On behalf of the respondents, no witnesses were examined and no document was marked.

7. After considering the oral and documentary evidence available on record, the Tribunal held that the accident occurred due to the rash and negligent driving of the RTC bus and awarded the total compensation of Rs.10,55,000/- with proportionate costs and interest at 7.5% per annum from the date of petition till the date of payment or realization to be paid by the respondent Nos.1 and 2 jointly and severally.

6. Heard both the learned counsel and perused the material available on record.

7. Learned Counsel for the claimants has submitted that though the claimants established that the deceased was a Supervisor in Janapriya Nile Valley, Ameenpur Village, R.C.Puram, Medak District and was drawing Rs.13,000/- per month, the Tribunal has awarded very meager amount.

8. The main contention raised by the learned Standing Counsel for the respondents-Corporation is that there is contributory negligence on the part of the motorcyclist and

the Tribunal committed irregularity in holding that the accident occurred due to the rash and negligent driving of the APSRTC Bus bearing No. AP 11 Z 7158 and the Tribunal erred in taking the income of the deceased at Rs.10,000/-. It is further contended that the compensation claimed is excessive and prays to set aside the Order passed by the Tribunal.

9. With regard to the manner of accident, PW.1 reiterated the petition averments. PW-2 who was said to be an eyewitness has clearly stated that on 12.11.2011 at about 6.00 p.m. he was going towards Jagadgirigutta from Ameenpur, and in front of his motorcycle, one A.Srikanth Reddy, who is his colleague was proceeding, at the same time, one APSRTC Bus bearing No. AP 11 Z 7158 dashed his colleague from back side. Due to which, he sustained grievous injuries and died on the spot. Even as per the charge sheet also, it is very clear that the accident occurred due to the rash and negligent driving of the driver of the RTC Bus. Further there is no rebuttal evidence produced by the respondents-Corporation to prove the negligence on

both the RTC Bus and the motorcycle. Therefore, the Tribunal after evaluating the evidence of PWs.1 and 2 coupled with the documentary evidence available on record, rightly held that the accident occurred due to the rash and negligent driving of the driver of the RTC bus.

10. With regard to the quantum of compensation, the evidence of PW-3 who is working as Head-HR in Janapriya Nyle Valley, Hyderabad shows that he knows the deceased A.Srikanth Reddy who worked as Senior Executive in Inventory Department from 23.6.2011 to 12.11.2011 in their organization and he was drawing Rs.1,56,000/- per annum i.e., Rs.13,000/- per month. Ex.A8 salary certificate was issued by him. Learned counsel for the respondents-Corporation argued that the petitioners though filed salary certificate, PW-3 has not produced any documentary proof to show that the deceased was working in their Company nor drawing amount of Rs.13,000/- per month. This Court has perused the documents filed along with the petition i.e., Ex.X-1 to X-3 which discloses that the deceased is a Graduate and the petitioners have also

produced the original consolidated marks memo issued by Osmania University and original provisional certificate issued by the Registrar, Osmania University. Therefore, this Court is of the considered opinion that person with a qualification as a Graduate will not lead his life without any avocation or job. Furthermore, the Tribunal has also taken into consideration the educational qualification and the occupation of the deceased, assessed the income of the deceased at Rs.10,000/- per month, however, even after accepting his occupation as Senior Executive, Janapriya Nyle Valley, Ameenpur Village, however, did not taken into consideration the salary certificate issued by the company. Hence, in view of the above, this Court is inclined to accept the salary certificate filed under Ex.A8 and taken the income of the deceased at Rs.13,000/- per month. Further the claimants are entitled to addition of 40% towards future prospects to the established income, as per the decision of the Apex Court in ***National Insurance Company Limited Vs. Pranay Sethi and others***¹. Therefore, future monthly income of the deceased comes to

¹ 2017 ACJ 2700

Rs.18,200/- (Rs.13,000/- + Rs.5,200/- being 40% thereof). From this, 50% is to be deducted towards personal expenses of the deceased following ***Sarla Verma v. Delhi Transport Corporation***² as the deceased was a bachelor. After deducting 50% amount towards his personal and living expenses, the contribution of the deceased to the family would be Rs.9,100/- per month. Since the deceased was 26 years by the time of the accident, the appropriate multiplier is '17' as per the decision reported in ***Sarla Verma v. Delhi Transport Corporation*** (supra). Adopting multiplier '17', the total loss of dependency would be Rs.9,100/- x 12 x 17 = **Rs.18,56,400/-**. In addition thereto, the claimants are also entitled to **Rs.33,000/-** under the conventional heads as per **Pranay Sethi's** (supra). Further the petitioner Nos.1 and 2 are also entitled to parental consortium at **Rs.40,000/-** each as per the **Magma General Insurance Company Limited vs. Nanu Ram Alias Chuhru Ram**³. Thus, in all the claimants are entitled to **Rs.19,69,400/-**.

² 2009 ACJ 1298 (SC)

³ 2018 Law Suit (SC) 904

12. Accordingly, M.A.C.M.A.No.502 of 2015 filed by the claimants is allowed by enhancing the compensation amount awarded by the Tribunal from Rs.10,55,000/- to **Rs.19,69,400/-**. The enhanced amount shall carry interest at 7.5% per annum from the date of petition till the date of realization, payable by respondent Nos.1 and 2 jointly and severally. The enhanced amount shall be apportioned in the manner as ordered by the Tribunal. Time to deposit the compensation is one month from the date of receipt of a copy of this order. The claimants shall pay the deficit court fee and on such payment of court fee only, the claimants are entitled to withdraw the compensation without furnishing any security. M.A.C.M.A.No.833 of 2015 stands dismissed. There shall be no order as to costs.

13. Miscellaneous petitions, if any, pending shall stand closed.

M.G.PRIYADARSINI,J

01.12.2022
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