

THE HONOURABLE SRI JUSTICE A.SANTHOSH REDDY

M.A.C.M.A.No.2718 OF 2018

JUDGMENT:

This appeal is directed against the award dated 20.07.2018 in M.V.O.P.No.841 of 2016, on the file of the Motor Accidents Claims Tribunal-cum-Chief Judge, City Civil Court, Hyderabad (for short 'the Tribunal'), wherein the said claim application filed by respondents herein seeking compensation was allowed-in-part, awarding Rs.8,46,400/- with interest at 7.5% per annum from the date of petition.

2. Heard the learned counsel for the appellants-APSRTC and the learned counsel for the respondents-claimants. Perused the record.

3. The respondents herein filed claim application seeking compensation of Rs.12,00,000/- on account of death of the deceased A.Saidulu, who died in a motor vehicle accident that occurred on 22.10.2008 at 02:10 p.m. According to the claimants, on that day, the deceased was driving motor cycle and while crossing the road opposite Nalanda Junior College, Dilsuknagar,

Hyderabad at that time, one RTC bus bearing AP 28 Z 3254 driven by its driver in a rash and negligent manner came at high speed and dashed his motorcycle and another pedestrian. As a result, the deceased fell on the road and received head injury. Immediately, he was shifted to Kamala Hospital, Dilsukhnagar, Hyderabad and while undergoing treatment he succumbed to the same on the same day. Police, Malakpet registered a case in Cr.No.331 of 2008 against the driver of the RTC bus for the offence punishable under Sections 337 and 304-A IPC. Claimant No.1 is the mother and claimants 2 and 3 are the brother and sister of the deceased. According to the claimants, the deceased was working as a painter and earning Rs.22,000/- per month and contributing the same to the family. The deceased was aged 26 years at the time of accident.

4. The appellants-APSRTC filed counter opposing the claim and denying their liability to pay the compensation.

5. On a consideration of the evidence available on record, the Tribunal held that the accident occurred due to the rash and negligent driving of the RTC bus by its driver. The Tribunal further held that the claimant was entitled for a total compensation

of Rs.8,64,400/- with interest at 7.5% per annum. Aggrieved by the same, the insurer filed the present appeal.

6. The learned counsel for the appellants would contend that the Tribunal erred in awarding compensation to the claimants despite there being no negligence on the part of the driver of the RTC bus and, in fact, the deceased drove the motorcycle in a rash and negligent manner. He would further contend that the Tribunal erred in fixing the monthly income of Rs.4,500/- without any proper evidence and also calculated the future prospects on the said income and the compensation granted by the Tribunal is excessive and unwarranted.

7. A perusal of the evidence of P.W.3, who was examined on behalf of the claimant and eye witness to the accident, would reveal that he was present at the spot when the accident took place and the accident occurred due to the rash and negligent driving of the RTC bus by its driver. Considering the evidence of the claimants in particular the eye-witness P.W.3 and F.I.R., charge sheet, and inquest report in Exs.A-1 to A-3, the Tribunal had rightly held that the accident occurred due to the rash and negligent driving of the

RTC bus which dashed the motorcycle of the deceased. As a result of said accident, the deceased sustained head injury and later succumbed to the same in the hospital.

8. It is the case of the claimants that the deceased was a painter and earning Rs.22,000/- per month. However, the Tribunal, after taking into consideration the evidence adduced by the claimants, fixed an amount of Rs.4,500/- per month towards income of the deceased and also added 40% future prospects as the deceased was aged 30 years, though the counsel for the appellants disputed the fixation of quantum of income, and arrived at Rs.6,300/- per month and Rs.75,600/- per annum. The Tribunal, after deducting one third towards personal expenses assessed the contribution to the family at Rs.50,400/- (Rs.75,600/- minus Rs.25,200/-) and after applying the multiplier '16' appropriate to the age of the deceased, assessed the loss of dependency at Rs.8,06,400/- (Rs.50,400/- x 16). From a perusal of the evidence on record and the award of the Tribunal, the same would justify fixation of such income by the Tribunal, as the deceased was doing painting contract works by engaging workers as per the evidence of P.W.2. The Tribunal has

also awarded Rs.15,000/- towards love and affection, Rs.15,000/- towards transportation charges and Rs.10,000/- towards funeral expenses, making up a total of Rs.8,46,400/-.

9. In the circumstances, I am of the view of that the Tribunal had awarded just and reasonable compensation based on oral and documentary evidence adduced by the claimants and I do not find any justifiable grounds to interfere with the said award.

10. In the result, the appeal is dismissed. There shall be no order as to costs.

11. Pending miscellaneous petitions, if any, stand closed.

A.SANTHOSH REDDY, J

11.10.2022

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