

HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A. No.1744 of 2017

JUDGMENT :

Not being satisfied with the quantum of compensation awarded by the Chairman, Motor Accident Claims Tribunal-cum-Additional District Judge, Nizamabad in M.V.O.P. No.1044 of 2008, dated 7.1.2016, the present appeal is filed by the respondent Nos.3 to 5, who are the first wife and children of the deceased, seeking enhancement of compensation granted by the Tribunal.

2. According to the petitioners, on 4.12.2007 while the deceased Abdul Hameed @ Ameeruddin was going on his scooter bearing No. AP 25 AD 7641 in order to attend Metpally Court and at about 12-30 p.m. when he reached near Kukunoor X road on National Highway No.16, APSRTC bus bearing No. AP 11 Z 881 belongs to Karimnagar Depot being driven by its driver came in a rash and negligent manner and dashed the deceased, due to which he sustained crush injuries and died on the spot. Police, Velpoor registered a case in crime No.75 of 2007 against the bus driver under Section 304-A of Indian Penal Code. According to the petitioners, the deceased was aged 35 years, doing vegetable business and milk vendor, other petty seasonal business etc.,

and getting income of Rs.10,000/- per month. Thus the petitioners claimed compensation of Rs.9,00,000/- under various heads against the respondent No.1 and 2-Andhra Pradesh State Road Transport Corporation and respondent Nos.3 to 5, who are the first wife and children of the deceased.

3. Respondent Nos.1 and 2-Corporation filed counter disputing the manner of accident, age, avocation and income of the deceased. It is further contended that the compensation claimed by the petitioners is excessive and therefore, prays to dismiss the petition.

4. In order to prove their case, PWs.1 and 2 were examined and Exs.A1 to A10 were marked. On behalf of the respondents, RWs.1 to 3 were examined and Exs.B1 to B5 were marked.

5. The Tribunal on considering the oral and documentary evidence available on record, partly allowed the O.P., awarding a total compensation of Rs.8,96,200/- along with costs and interest @ 7.5% per annum from the date of filing of the petition till the date of realization against the respondent Nos.1 and 2-Corporation.

6. Heard the learned counsel for the appellants and the learned Standing Counsel for the respondents-Corporation. Perused the material available on record.

7. The main contention of the learned counsel for the appellants is that though it is an admitted fact that the petitioner No.1 is the second wife and respondent No.3 is the first wife of the deceased, the tribunal after taking into consideration of all the aspects has awarded an amount of Rs.8,96,200/-. However, coming to the apportionment, the tribunal apportioned an amount of Rs.2,71,200/- to the petitioner No.1 and Rs.50,000/- to the respondent No.3, which is contrary to law. Therefore, he prays to award the compensation to both the wives of the deceased equally.

8. On the other hand, the learned Standing Counsel for the respondents-Corporation submitted that the tribunal after considering all the aspects has rightly apportioned the amount and the same needs no interference by this Court.

9. Admittedly, there is no dispute with regard to the manner of accident. However, 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 offending RTC bus. Therefore, I see no reason to interfere with the finding of the tribunal in this aspect.

10. Coming to the compensation, the tribunal after appreciating the evidence available on record, rightly taken the income of the deceased at Rs.4,500/-, deducted $1/5^{\text{th}}$ towards personal expenses and by applying multiplier '16' awarded an amount of Rs.6,91,200/- towards loss of dependency. The tribunal further awarded an amount of Rs.50,000/- towards loss of consortium, Rs.25,000/- towards funeral expenses, Rs.10,000/- towards transport charges and Rs.1,20,000/- towards loss of love and affection and in all, the petitioners and respondent Nos.3 to 5 granted compensation of Rs.8,96,200/-, which is just and reasonable. Therefore, there are no grounds to interfere with the findings of the tribunal on this aspect.

11. Coming to the apportionment of compensation, the order of the tribunal discloses that the tribunal has taken into consideration about filing of criminal case against the deceased for the offence punishable under Section 498-A of Indian Penal Code by the respondent No.3 and further respondent No.3 and the deceased are living separately for the

last six years prior to the date of accident, has granted an amount of Rs.50,000/- to the respondent No.3. It is pertinent to state that the marriage between the deceased and respondent No.3 is still subsisting and there is no evidence to show that the respondent No.3 has taken divorce from the deceased. As the Motor Vehicles Act is a piece of beneficial legislation, all the dependants are the legal representatives of the deceased and further respondent No.3 is the first wife of the deceased. Therefore, she is also entitled for equal share of compensation. Further the criminal cases will not binding on the Motor Vehicles Act cases. Under these circumstances, this Court is of the considered opinion that the amount apportioned to the respondent No.3 is very less and the same is to be enhanced on par with the petitioner No.1. The amount awarded to the petitioner No.1 and respondent No.3 comes to Rs.3,21,200/- ($2,71,200 + 50,000 = 3,21,200$) and the same is to be apportioned to the petitioner No.1 and respondent No.3 equally, which comes to Rs.1,60,600/-.

11. In the result, the appeal is partly allowed to the extent of modifying the apportionment of compensation to the petitioner No.1 and respondent No.3 at Rs.1,60,600/- each. In all other aspects, the

order of the Tribunal stands confirmed. There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

01.03.2023
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