

HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

M.A.C.M.A.No.4199 of 2008

JUDGMENT:

This appeal is preferred by the appellants/claimants aggrieved by the quantum of compensation awarded by the II Addl. Metropolitan Sessions Judge-cum-XVI Addl. Chief Judge, Hyderabad in O.P.No.2231 of 2004 on 19.09.2006.

2. Heard Mr. Thoom Srinivas, learned counsel appearing for the appellants/claimants i.e. Corporation and Mr. V. T. M. Prasad, learned counsel appearing for the respondents.

3. The brief facts are that on 05-07-2004 at about 19:00 hours, the deceased boarded the APSRTC bus bearing No.AP 10 Z 7875 from back door at B.N. Reddy Nagar bus stop. At that time, the bus driver in which the deceased was travelling drove the bus in a rash and negligent manner with high speed and applied sudden breaks, due to which the deceased fell down from the bus and sustained grievous injuries and fractures and immediately the deceased was shifted to Osmania General Hospital and while undergoing treatment the deceased succumbed to injuries on 06.07.2004. The Vanasthalipuram Police registered a case in Cr.No.382 of 2004 against driver of the said bus. Thus, the accident occurred only due to the rash and negligent driving of the driver of the said bus. The deceased was young and dynamic in his work and had bright future and the deceased left behind his wife and four minor children and he was the

only earning member of the family. The deceased was having a hair saloon and earning Rs.5000/- per month. They have no other source of income or property to maintain themselves. The First petitioner lost the love and affection and also the company of her husband at a very young age. The petitioner Nos.2 to 5 lost the care and custody of their father at a very tender age which cannot be compensated in terms of money. Due to untimely death of the deceased, his family was put to great hardship and mental agony. The crime vehicle belongs to the APSRTC and the same was driven by its driver, employed by the APSRTC. Therefore, the respondent is liable to pay the compensation. Thus, appellants/claimants claimed compensation of Rs.5,00,000/- and the Court below has granted Rs.3,16,000/- with the interest at 7.5% per annum from the date of the petition till the date of realization.

4. The respondent/Corporation has filed counter affidavit denying the manner of accident, rash and negligent driving on the part of the driver of the bus, age, avocation, income of the deceased and the amount claimed by the appellant/claimant.

5. The Court below on analyzing the evidence granted compensation of Rs.3,16,000/- with interest @ 7.5% per annum from the date of petition till the date of deposit.

6. Learned Standing Counsel submits that the Court below had failed to consider that the accident was occurred due to the contributory negligence of the deceased but held that it has happened due to the rash and negligence driving of the driver of the bus. It is stated that they have pleaded that the deceased boarded the bus from the back door and due to sudden breaks applied by the driver he fell down and died and in the evidence of PW2, it is held that the deceased was standing in the second step of the foot board and it appears that due to the sudden break applied, the deceased fell down on the road. It is stated that there is a contributory negligence on the part of the respondents and further it is stated that the court below has assessed the income of the deceased at Rs.2100/- per month without there being any evidence to that. He submits that the amount that has been granted by the Court below is excessive and as there is a contributory negligence, 20% of the amount should have been deducted from the same.

7. Learned Counsel appearing for the respondents herein submits that though they claimed the income of the deceased as Rs.5000/-, the court below has granted only an amount of Rs.2100/- per month. He submits that infact the respondents herein are entitled for the enhancement of the compensation. He

submits that there are no merits in the appeal filed by the Corporation.

8. The compensation that is claimed by the respondents herein is Rs 5,00,000/- and the court below has granted only Rs.3,16,000/- and even the amount that was considered as monthly income is Rs2100/- and the evidence on record clearly shows that due to the rash and negligent driving of the driver of the bus, the accident happened. As such, the Court below was right in passing the liability of the RTC. As there is no contributory negligence on the part of the deceased, the appeal is liable to be dismissed.

9. Accordingly, the M.A.C.M.A. is dismissed. No order as to costs.

Miscellaneous applications, pending if any, shall stand closed.

3rd February, 2023

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LALITHA KANNEGANTI, J