

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH:
HYDERABAD

-
THURSDAY, THE TWENTY EIGHTH (28TH) DAY OF APRIL,
TWO THOUSAND AND ELEVEN

Present:

HON'BLE SRI JUSTICE G.V.SEETHAPATHY

MA CMA No.104 of 2009

Between:

The Managing Director, APSRTC, Hyderabad

...Appellant

And:

B.Laxminarayana & others

... Respondents

HON'BLE SRI JUSTICE G.V.SEETHAPATHY

MA CMA No.104 of 2009

JUDGMENT:

This appeal is directed against the order dated 19.06.2008 in OP No.1566 of 2005 on the file of the XVII Additional Chief Judge cum III Additional Metropolitan Sessions Judge, Hyderabad, wherein the claim of the respondents herein was allowed in part, awarding compensation of Rs.1,37,000/- with interest at 7.5% per annum from the date of petition, till the date of realization.

2. Heard the learned counsel for the appellant-APSRTC. None appeared for the respondents, though served with notice. Perused the record.

3. The respondents 1 to 4 herein filed claim application seeking compensation of Rs.3,00,000/- on account of death of the

deceased *Madhusudhan*. The claimants 1 and 2 are the parents and the claimants 3 and 4 are sisters of the deceased. According to the claimants on 24.04.2004 while the deceased was returning home on his cycle, near *Nalgonda* X roads, an RTC bus came from behind at high speed, driven by its driver in rash and negligent manner, dashed against the cycle, resulting in death of the deceased on the spot. Police registered a case in Cr.No.203 of 2004 against the driver of the RTC bus. According to the claimants, the deceased was studying intermediate and was also doing part time job as technical assistant in K N Automobiles and earning Rs.2,500/- per month and was unmarried, aged 19 years. The appellant filed counter, opposing the claim and denying their liability to pay the compensation.

4. During enquiry, PWs.1 to 4 were examined and Exs.A.1 to A.7 were marked on behalf of the claimants. RW.1 was examined, but no documents were marked on behalf of RTC. 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 awarded Rs.1,30,000/- towards loss of dependency, Rs.5,000/- towards loss of estate and Rs.2,000/- towards funeral charges, totaling Rs.1,37,000/-, with interest at 7.5% per annum. Aggrieved by the same, RTC preferred the present appeal.

5. The evidence on record clearly established that the accident occurred due to the rash and negligent driving of the bus by RTC driver and the said finding does not call for any interference.

6. Insofar as the quantum is concerned, as the deceased

was unmarried, the age of the mother, who was 46 years, was taken into consideration and the multiplier of 13 was applied, which is appropriate multiplier as per the decision of the apex Court in '***Sarla Verma vs. Delhi Transport Corporation***^[1]'. The Tribunal rejected the plea of the claimants that the deceased was working at the time of accident as technical assistant and was earning Rs.2,500/- per month and has taken into consideration only the notional income of Rs.15,000/- per annum as per II Schedule of the M.V. Act. The Tribunal, however, deducted 1/3rd thereof towards personal expenses and arrived loss of dependency in a sum of Rs.1,30,000/- (Rs.10,000/- x 13). However, as per the above decision of the Apex Court in *Sarla Verma's* case, in the case of unmarried person, the normal deduction towards personal expenses would be 50%, but not 1/3rd. Applying the said principle, the notional contribution of the deceased would be Rs.7,500/- per annum, being 50% of the notional income of Rs.15,000/-. Applying the multiplier 13, the loss of dependency works to Rs.97,500/- (Rs.7,500/- x 13). The claimants are entitled for loss of estate in a sum of Rs.2,500/- and funeral expenses in a sum of Rs.2,000/- as per the II Schedule. Thus, the claimants are entitled for compensation in a sum of Rs.1,02,000/- (Rs.97,500/- + Rs.2,500/- + Rs.2,000/-). As per the decision of the *Sarla Verma's* case, the claimants are entitled for interest only at 6% per annum but not 7.5%. In the circumstances, the claimants are held entitled for compensation of Rs.1,02,000/- with interest at 6% per annum, from the date of petition, till the date of realization. The amount awarded is modified accordingly.

7. In the result, the appeal is allowed in part to the extent stated above. No order as to costs.

G.V.SEETHAPATHY, J

Date: 28.04.2011
bss

[\[1\]](#) (2009)6 SCC 121