

THE HON'BLE SMT. JUSTICE M. G. PRIYADARSINI

M.A.C.M.A. No.3485 of 2014

JUDGMENT:

This appeal is preferred by the appellant-Road Transport Corporation, questioning the order and decree, dated 28.01.2014 made in M.V.O.P.No.593 of 2010 on the file of the Motor Accidents Claims Tribunal (I Additional District Judge), Nizamabad (for short, the Tribunal).

2. For the sake of convenience, the parties have been referred to as per their array before the Tribunal.

3. The claimants filed a petition under Section 166 of the Motor Vehicles Act claiming compensation of Rs.10,00,000/- against the respondents on account of death of the deceased, P.Vijaya, in the accident that occurred on 03.07.2010 involving the bus bearing No.AP 28 Z 3948, owned by respondents, being driven by its driver. According to the claimants, on the fateful day, while the deceased, along with her family members, was traveling in Toofan vehicle No.AP 28 B 4628, the offending bus came in rash and negligent manner and dashed the

Toofan Vehicle in which the deceased was travelling. As a result, the deceased sustained grievous injuries. Immediately after the accident, the deceased was shifted to Government General Hospital, Kurnool and from there she was shifted to NIMS Hospital, Hyderabad and on 08.07.2010 she succumbed to injuries while undergoing treatment. According to the claimants, the deceased was aged about 48 years and earning Rs.10,000/- per month by doing tailoring work. Therefore, they laid the claim for Rs.10.00 lakhs against the respondents.

4. After considering the claim, counter and the evidence brought on record, the tribunal has allowed the O.P. awarding compensation of Rs.9,88,975/- together with interest at 7.5% per annum and costs to be paid by the respondents. Challenging the same, the present appeal is preferred by the respondents-RTC.

5. Heard both sides and perused the material available on record.

6. The contention of the learned Standing Counsel for the appellant-RTC is that the Tribunal erred in holding that the accident occurred due to rash and negligent driving of the driver of the offending vehicle. It is further contended that in the absence of any proof as to the income of the deceased, the learned tribunal ought not to have taken the income at Rs.6,000/- per month. It is further contended that the rate of interest fixed by the tribunal at 7.5% is too high and it should not be more than 6%.

7. On the other hand, the learned counsel appearing on behalf of the claimants has sought to sustain the impugned order contending that the Tribunal has awarded just compensation. Therefore, the learned counsel sought for dismissal of the appeal.

8. Insofar as the manner in which the accident took place is concerned, a perusal of the impugned judgment shows that the tribunal having framed Issue No.1 as to whether the accident had occurred due to rash and

negligent driving of the vehicle by the driver of the offending bus, and having considered the evidence of P.W.1 coupled with the documentary evidence, has categorically observed that the accident occurred due to the rash and negligent act of the driver of the offending bus and has answered the issue in favour of the claimants and against the respondents. Therefore, I see no reason to interfere with the finding of the Tribunal in this regard.

9. As far as the quantum of compensation is concerned, after considering the age and avocation of the deceased, the Tribunal has rightly taken the income of the deceased at Rs.6,000/- per month and after deducting $1/3^{\text{rd}}$ amount and applying multiplier at '13' as the deceased was aged about 48 years as per the Post Mortem Examination Report, Ex.A8, the Tribunal has awarded Rs.9,88,975/-. Therefore, I see no reason to interfere with the quantum of compensation awarded by the Tribunal.

10. In the result, the appeal is dismissed confirming the order and decree dated 28.01.2014 made in

M.V.O.P.No.593 of 2010 passed by the Tribunal. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand dismissed.

JUSTICE M.G. PRIYADARSINI

06.01.2023
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DATE: 06.01.2023