

(1996) 02 AP CK 0059

In the Andhra Pradesh High Court

Case No : Appeal Against Order No. 591 of 1991 and Cross-objections

Andhra Pradesh State Road Transport Corporation	APPELLANT
Vs	
Sanjay Kumar Bhawsingkha and Others	RESPONDENT

Date of Decision : 06-02-1996

Acts Referred:

Motor Vehicles Act, 1939 — Section 110B

Citation : (1997) 2 ALD 780 : (1997) 1 ALT 293

Hon'ble Judges : V. Bhaskara Rao, J;N.Y. Hanumanthappa, J

Bench : Division Bench

Advocate : C.V. Ramulu, S.C, for the Appellant; P.S. Narayana, for the Respondent

Judgement

1. Heard both sides.
2. This appeal is directed against the order of the learned Additional District Judge-cum-Motor Accidents Claims Tribunal, Tirupati passed in O.P.No. 200 of 1989 dated 31-12-1990 holding that the accident occurred due to the rash and negligent act on the part of the driver and Conductor of the ill-fated bus AEZ 3150 on 21-11-1988 at Tirupati bus stand at 11-15 PM and that the appellant-Corporation is liable to pay the compensation to the claimants.
3. A few facts which are necessary for the disposal of the appeal are as follows:-
On 21-11-1988 the deceased Kamala Kumar Bhawasingkha, aged about 45 years along with his family members and other relatives was travelling from Bangalore to Srikalahasti in the APSRTC bus bearing No. AEZ 3150. At about 11-15 PM on the same day the bus was stopped at RTC bus stand, Tirupati. Apart from the deceased and other family members, there were other passengers travelling by the same bus to Srikalahasti. After stopping the bus at the RTC bus stand at Tirupati, the driver went to attend the calls of nature and the conductor went to report to the Central Depot about the arrival of the bus. Suddenly there was an accident and the bus caught fire and took the lives of 16 passengers including the deceased. It is alleged that the accident occurred due to the gross negligence

and carelessness on the part of the conductor and driver of the bus who contravened the provisions of the Motor Vehicles Act.

4. The deceased was the father of the respondents/claimants 1 to 5 and son of the respondents/claimants 6 and 7. The claimants filed an application u/s 110-A of the Motor Vehicles Act before the Motor Accidents Claims Tribunal, claiming a compensation of Rs. 16,35,000/-. The claim was opposed by the appellant-corporation. Before the Claims Tribunal, on behalf of the claimants, P.Ws.1 to 3 were examined. Exs. A-1 to A-18 were marked on their behalf. No oral or documentary evidence was let in on behalf of the appellant though an opportunity was given to let in evidence. The Claims Tribunal framed the following points for consideration:-

1. Whether the deceased Kamal Kumar Bhasinghka died due to rash and negligent driving of the bus AEZ 3150 by its driver?

2. Whether the petitioners are entitled for compensation and if so, to what amount?

3. To what relief?

After considering the entire material placed before it, the Tribunal found that the accident occurred due to the negligence on the part of the driver and conductor of the bus in not taking care and allowing some inflammable and combustible substance to be kept in the cabin of the driver instead of putting it on the top of the bus.

5. It was contended before the Claims Tribunal that the deceased was getting a salary of Rs. 5000/- per month by working as Managing Director-cum-Chairman of Ajay Road Ways (P) Limited besides getting Rs. 12,000/-per annum towards his share from the petrol filling station called Petroleum Corporation at Dhanbad and that he was contributing his entire to the family. The Claims Tribunal after taking into consideration all the attendant circumstances like the age of the deceased, the age of the claimants, the earning capacity of the deceased and applying the multiplier of 25 awarded a compensation of Rs 10,65,000/- as indicated below :

Loss of property	Rs. 5000-00	Pain & suffering	Rs. 15,000-00	Loss of expectation of life	Rs. 15,000-00	Love and affection	Rs. 30,000-00	Loss of Income	Rs. 10,00,000-00	-----	Total	Rs. 10,65,000-00	-----
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It is urged on behalf of the appellant-Corporation that taking into consideration ? the age of the claimants and the income of the deceased, the multiplier applied 5 by the Claims Tribunal is not correct and the multiplier of 11 should have been applied instead of the multiplier 25. On the other hand, it is urged on behalf of the claimants, that the lower Court after taking into account all the relevant factors, the income of the deceased etc., awarded the compensation as indicated above and hence the award may be confirmed by dismissing the appeal. We have perused the entire record placed before us. In the facts and circumstances of the

case, we are of the considered opinion that the multiplier of 11 should have been applied instead of 25 by taking into account the income of the deceased at Rs. 5000/-. If we apply the multiplier of 11 taking into account, the income of the deceased at Rs. 5000/-, then it comes to Rs. 5,28,000/-. Thus, the claimants are entitled in all to a total compensation of Rs. 5,93,000/- from which a sum of Rs. 30,000/- already paid shall be deducted. The claimants are entitled to interest at 12% p.a. from the date of petition till date of payment. Respondents 6 and 7 herein (claimants 6 and 7 in the MVOP) who are the parents of the deceased shall be paid a sum of Rs. 50,000/- each from out of the compensation now awarded. Claimants 1 to 5 are entitled to equal shares in the balance of the compensation amount. The shares of minors shall be deposited in any nationalised/Scheduled Bank in a Recurring Deposit as directed by the Claims Tribunal. They are entitled to withdraw the same soon after they attain majority. Any modification as to the withdrawal of interest etc., out of the amount to be deposited in the Recurring Deposit of any Nationalised/Scheduled Bank shall be considered by the Claims Tribunal if any such application is filed on behalf of the claimants.

6. The CMA is accordingly allowed in part as indicated above. Since the CMA is allowed in part, nothing remains to be considered in the Cross-objections filed by the claimants and it is accordingly dismissed. No costs.