
(1999) 09 AP CK 0080

In the Andhra Pradesh High Court

Case No : A.A.O. No. 413 of 1995 and Cross-Objections

A.P.S.R.T.C.

APPELLANT

Vs

Jaweed Farooqui and Another

RESPONDENT

Date of Decision : 21-09-1999

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2000) 3 ALT 444 : (2000) 1 APLJ 260

Hon'ble Judges : Elipe Dharma Rao, J

Bench : Single Bench

Advocate : Nanda Ramachandra Rao, S.C, for the Appellant; T. Seshagiri Rao, for the Respondent

Judgement

Elipe Dharma Rao, J.—This appeal is filed by the appellant-A.P.S.R.T.C. aggrieved by the judgment and decree passed in O.P. No. 886 of 1992, dated 21-12-1994 on the file of the learned Additional Chief Judge, City Civil Court, Hyderabad.

2. The brief facts of the case are that on 10-3-1992 at about 7.00 a.m., while the deceased was proceeding towards Rethi Bowli side on his scooter bearing No. AHO 7387 from Lasmic Tutorial Centre, so as to bring his Lecturer, and when he reached in front of Sarvi Hotel, Mehdiapatnam, a bus bearing No. AAZ 5935, belonging to A.P.S.R.T.C., which was also proceeding in the same direction driven by its driver in high speed and in a rash and negligent manner, dashed against the deceased. Due to the said accident, the deceased died on the spot. At the time of the accident he was studying Intermediate and also doing part-time job in Ex-Defence Police Security Services, Panjagutta, Hyderabad, and earning an amount of Rs. 1,000/- per month and also getting a commission of Rs. 700/-. Therefore, the claimants have filed a claim petition claiming compensation of Rs. 3,00,000/- for untimely death of their son.

3. The respondents resisted the claim by filing counter-affidavit stating that the accident was not occurred due to rash and negligent driving of the driver of the bus. It is stated that the deceased was riding a scooter and, when he tried to

overtake the bus near Mehdiapatnam cross roads, came under the right rear wheel and got himself injured, and that the deceased was not gainfully employed anywhere in any capacity and he was a student of Intermediate second year, and the compensation claimed by the claimants is very high and exorbitant. They are also disputing the income of the deceased. After going through evidence on record, both oral and documentary, the Court below held that this accident was occurred due to rash and negligent driving of the driver of the bus and awarded a total compensation of Rs. 1,80,000/-. While awarding the above compensation, the Court below has taken the age of the father of the deceased as 42 years and his income at Rs. 1,000/- and applied the multiplier of 15. But, according to the learned Counsel for the appellant, when the claimants were the father and mother of the deceased son, the age of the mother has to be taken into account for applying the appropriate multiplier instead of taking the age of the father.

4. There is some force in the submission made by the learned Counsel for the appellant. Therefore, I have taken the age of the mother of the deceased as 35 years and appropriate multiplier applicable is 15. The deceased was earning Rs. 1,000/- per month and receiving Commission at Rs. 700/- per month. Therefore taking the net income at Rs. 1,000/- per month, if 1/3 is deducted towards his personal expenses, his contribution to the family comes to Rs. 667/-. But, I would incline to take it as Rs. 700/-. Therefore, Rs. 700/- x 15 x 12, which comes to Rs. 1,26,000/-. The Tribunal has not awarded any compensation for the loss of estate and non-pecuniary damages. Therefore, I am inclined to award an amount of Rs. 20,000/- towards loss of estate and non-pecuniary damages, which comes to Rs. 1,46,000/-.

5. In the result, the appeal is partly allowed by reducing the compensation from Rs. 1,80,000/- to Rs. 1,46,000/- (Rupees one lakh forty-six thousand only). The cross-objections are hereby dismissed. No costs.