

(2022) 07 TEL CK 0030

In the Telangana High Court

Case No : Motor Accident Civil Miscellaneous Appeal No. 674 Of 2016

APSRTC, Rep By Its M.D., Hyderabad

APPELLANT

Vs

Regalla Madhavi, Khammam Dist 4 Others

RESPONDENT

Date of Decision : 06-07-2022

Acts Referred:

Motor Vehicles Act, 1988 — Section 166
Indian Penal Code, 1860 — Section 304A, 337

Citation : (2022) 07 TEL CK 0030

Hon'ble Judges : G. Anupama Chakravarthy, J

Bench : Single Bench

Advocate : B Mayur Reddy, Suresh Kumar Potturi

Final Decision : Dismissed

Judgement

1. The appeal is arising out of the order dated 28.08.2014, in MVOP.No.390 of 2013 on the file of Motor Accident Claims Tribunal-cum-Special Judge for trial of Cases under SCs. & STs. (POA) Act-cum-Additional District Judge, Khammam. For the sake of convenience, the parties are arrayed as in the OP.

2. The appeal is filed by the RTC, who is the sole respondent in the O.P. The O.P. is filed before the Tribunal under Section 166 of the Motor Vehicles Act, claiming compensation of Rs.12 Lakhs with costs and interest @ 18% per annum for the accident occurred on 25.10.2012 resulting in the death of the deceased Regalla Sathish. The petitioners in the O.P. are the wife, children and parents of the deceased. As on the date of filing of the O.P., petitioner Nos.2 and 4 were minors being represented by their natural guardian i.e. the mother. It is the case of the claimants that the deceased was working as a Compounder, earning Rs.8,000/- per month and aged about 29 years at the time of the accident. Apart from that, he was having 2 acres of agricultural land and was earning Rs.1 Lakh per annum from the said land and due to the death of the deceased, the petitioners are deprived of their financial assistance, love and affection, care and guidance of the deceased and therefore, they are entitled for the compensation.

3. On the date of accident, the deceased along with his friend, was proceeding towards Khammam on his motorcycle bearing No.AP-20-AK-1981 and when they reached near the rice mill turning at Pallegudem, an RTC bus bearing No.AP-29-Z-3151 came in opposite direction and dashed against the motorcycle of the deceased, due to which, the deceased sustained multiple injuries and was shifted to Kinnera hospital and while undergoing treatment, he succumbed to injuries. Therefore, a case was registered against the driver of the RTC bus for the offences under Sections 304-A and 337 of IPC, vide FIR.No.275 of 2012 on the file of Khammam Rural Police Station.

4. A detailed counter affidavit was filed by the RTC before the Tribunal, disputing the age and income of the deceased and also about the deceased not having driving licence. It was further contended that there was no negligence on the part of the driver of the RTC bus.

5. The Tribunal, after considering the oral and documentary evidence on record, has come to a conclusion that the petitioners are entitled for a compensation of Rs.12,24,072/- but restricted their claim to Rs.12 Lakhs and also apportioned the amount between the petitioners who are the wife, children and parents of the deceased. Aggrieved by the said order, the RTC has preferred this appeal.

6. Heard learned counsel for both the parties and perused the record.

7. It is contended by the learned counsel for the appellant-RTC that there is no rash and negligent driving on the part of the driver of the bus, but the accident had occurred due to the rash and negligent riding of motorcycle by the deceased. It is further urged by the learned counsel for the appellant that the Tribunal erred in applying multiplier '18' instead of '17' and contended that the compensation awarded by the Tribunal is high and excessive and prayed to set aside the order passed by the Tribunal.

8. On perusal of the entire evidence on record, there is no dispute as to the manner in which the accident had occurred on 25.10.2012. PW-1, who is the wife of the deceased, deposed about the age and income of the deceased. PW-2 is the eyewitness to the accident. Exs.A-1 and A-2 are the FIR and charge sheet filed in Cr.No.275 of 2012 on the file of Khammam Rural Police Station. Ex.A-5 is the MVI report, which clearly disclose that there are no mechanical defects in the RTC bus at the time of accident. The charge sheet disclose that the driver of the RTC bus drove the bus in a rash and negligent manner and hit the motorcycle of the deceased and as a result, the death of the deceased occurred. The oral evidence of PWs.1 and 2 and the documentary evidence in Exs.A-1, A-2 and A-5 corroborates with each other as to the manner in which the accident had occurred and as to the age and income of the deceased. Ex.A-6 is the salary certificate of the deceased issued by one Dr.Venkateswar Rao, which reveals that the deceased worked as a Compounder and was being paid an amount of Rs.8,500/- per month. As per Ex.A-3/postmortem report and Ex.A-4/inquest report, the age of the deceased was 30 years and there is no dispute between

the parties as to the age of the deceased.

9. The trial Court has taken the multiplier as '18' as per Schedule-II of the Motor Vehicles Act, instead of following the multiplier as per the judgment of the Hon'ble Supreme Court in *Sarla Verma & others v. Delhi Transport Corporation & another* (2009) 6 SCC 121 and have come to a conclusion that the deceased is entitled to compensation of Rs.12,24,072/-.

10. Considering the multiplier mentioned in *Sarla Verma's case* ((2009) 6 SCC 121 supra) and after applying the multiplier '17' instead of '18' also, the compensation will come to Rs.13,00,500/- and the Tribunal has erred by wrongly calculating the compensation. The monthly income of the deceased is Rs.8,500/- and the annual income comes to Rs.1,02,000/- (Rs.8,500/- X 12). As the number of claimants are more than 4, the deduction would be 1/4th i.e. Rs.25,500/-(Rs.1,02,000 X $\frac{1}{4}$ =Rs.25,500/-) towards the personal expenses of the deceased. Thus, the annual income of deceased would come to Rs.76,500/- [Rs.1,02,000/- (-) Rs.25,500/-]. If the multiplier '17' is applied to the total income of Rs.76,500/-, it would come to Rs.13,00,500/- (Rs.76,500/- X 17). However, the trial Court has wrongly calculated it as Rs.12,24,072/- instead of Rs.13,00,500/-. Moreover, if the other heads of compensation are taken into consideration i.e. funeral expenses, loss of consortium, loss of estate and love and affection, the compensation might have been more than Rs.13 Lakhs. Admittedly, there are no cross-objections or appeal filed by the claimants in this case. The Tribunal has restricted the amount to Rs.12 Lakhs as the claimants themselves have paid the Court fee for the claim of Rs.12 Lakhs.

11. Therefore, there is no irregularity or error in the orders passed by the Tribunal either in coming to the conclusion about the rash and negligent act of the driver of the RTC bus or in granting the compensation.

12. In view of the aforesaid discussion, the appeal is dismissed as devoid of merits. As far as apportionment is concerned, the orders of the Tribunal holds good. The appellant-RTC shall deposit the compensation amount within 3 months from the date of this order. On such deposit, the claimants are permitted to withdraw the same. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.