
(2022) 07 TEL CK 0014

In the Telangana High Court

Case No : Motor Accident Civil Miscellaneous Appeal No. 986, 1467 Of 2016

Ginya Bai Another

APPELLANT

Vs

Depot Manager, APSRTC Another

RESPONDENT

Date of Decision : 07-07-2022

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2022) 07 TEL CK 0014

Hon'ble Judges : G. Anupama Chakravarthy, J

Bench : Single Bench

Advocate : Jagathpal Reddy, Kasi Reddy, N Vasudeva Reddy

Final Decision : Dismissed

Judgement

1. These two appeals are arising out of the same order dated 08.09.2015, in O.P.No.1602 of 2013 on the file of Motor Accident Claims Tribunal-cum-XIII Additional Chief Judge (FTC), City Civil Court, Hyderabad. MACMA.No.1467 of 2016 is filed by the APSRTC, to set aside the orders in the said O.P., whereas, MACMA.No.986 of 2016 is filed by the claimants for enhancement of compensation from Rs.8,85,000/- to Rs.10,00,000/-.

2. For the sake of convenience, the parties are referred to as arrayed in the O.P.

3. The O.P. is filed under Section 166 of Motor Vehicles Act claiming compensation of Rs.10 Lakhs for the death of one Sherikar Balaji in the accident occurred on 20.03.2013 at 4.30 p.m. due to the rash and negligent driving of the driver of APSRTC bus bearing No.AP-10-Z-9780.

4. Heard both sides and perused the material on record.

5. The learned Standing Counsel for RTC contended that the Tribunal has not properly come to a conclusion as to the earnings of the deceased and ought not to have granted Rs.50,000/- towards medical expenses inspite of no oral or documentary evidence on record. It is also contended by the learned Standing

Counsel for the RTC that the Tribunal ought not to have granted Rs.25,000/- towards funeral expenses.

6. On the other hand, the learned counsel for the claimants contended that 40% of future prospects and consortium of Rs.40,000/- per head has to be granted by the Tribunal and prayed to grant compensation under the said heads.

7. There is no dispute with regard to the income or age of the deceased in this case. On perusal of the record, it is evident that the accident occurred on 20.03.2013 at 4.30 p.m. when the deceased along with his friend were returning from Abids to Malakpet on the two wheeler bearing No.AP-28-AG-9041 and when they reached Golnaka, the RTC bus bearing No. AP-10-Z-9780 dashed against the two wheeler in a rash and negligent manner from their back, resulting in the death of the deceased while undergoing treatment in the hospital.

8. The evidence of PWs.1 to 3 and Exs.A-1 to A-7 corroborates with each other as to the manner of accident, age and income of the deceased and there is no dispute with regard to the said aspect to interfere with the orders of the Tribunal.

9. Both the counsel contended that the Larger Bench judgment of the Hon'ble Supreme Court in National Insurance Co. Ltd. v. Pranay Sethi & others 2017 ACJ 2700 has to be followed while granting compensation on different heads.

10. On perusal of the order of the Tribunal, it is evident that the Tribunal has awarded the following amounts under different heads;

1. Loss of dependency - Rs.8,10,000/-

2. Funeral expenses - Rs.25,000/-

3. Medical expenses - Rs.50,000/-

Thus, granted an amount of Rs.8,85,000/- towards compensation and apportioned equally to both the claimants.

11. Admittedly, the deceased is aged about 21 years as on the date of the accident and there is no dispute raised by the appellant as to the income of the deceased i.e. Rs.7,500/- per month as a Mechanic. The evidence of PW-3 who is the owner of the mechanic shed, clearly disclose that he paid an amount of Rs.7,500/- per month to the deceased and Ex.A-8 is the salary certificate issued by him. As per the judgment of Hon'ble Supreme Court in Smt.Sarla Verma v. Delhi Transport Corporation & another (2009) 6 SCC 121, the multiplier applicable is '18' for the age group of 15 to 25 years. The annual income of the deceased is Rs.90,000/-. If 40% future prospects is added, it would come to Rs.1,26,000/- (Rs.90,000 + Rs.36,000). Admittedly, the deceased is an unmarried person and as per judgment in Sarla Verma's case ((2009) 6 SCC 121 supra), 50% is to be deducted towards personal expenses. If 50% is deducted towards the personal expenses of the deceased, his contribution to the family would come to Rs.63,000/- (Rs.1,26,000 - Rs.63,000). If the multiplier '18' is applied, it would come to Rs.11,34,000/- (Rs.63,000 X 18).

12. Thus, the claimants are entitled to the compensation under the following heads;

1. Loss of dependency- Rs.11,34,000/-
2. Funeral expenses- Rs.15,000/-
3. Consortium- Rs.80,000/- (Rs.40,000/- each)
4. Loss of Estate - Rs.15,000/-

13. Accordingly, the appeals are disposed of, granting a total compensation of Rs.12,44,000/- with costs and interest at the rate of 7.5% per annum from the date of petition till the date of realisation. Both the claimants are equally entitled for the said amount. They are permitted to withdraw the amount as the accident took place in the year 2013.

Pending miscellaneous applications, if any, shall stand closed.