
(2010) 02 AP CK 0051

In the Andhra Pradesh High Court

Case No : M.A.C.M.A. No's. 514 and 2585 of 2006

Gurijala Chennamma and Others

APPELLANT

Vs

Vice-Chairman and Managing Director APSRTC and Others

RESPONDENT

Date of Decision : 25-02-2010

Acts Referred:

Citation : (2010) 5 ALD 61 : (2010) 3 ALT 209

Hon'ble Judges : C.V. Nagarjuna Reddy, J

Bench : Single Bench

Advocate : P. Govinda Rajulu, in M.A.C.M.A. No. 514 of 2006, G. Venkateswarlu, in CMA No. 2585 of 2006, for the Appellant; P. Govinda Rajulu, for Respondent Nos. 4 to 6 and 10 to 12 in M.A.C.M.A. No. 2585 of 2006, G. Venkateswarlu, in CMA No. 514 of 2006, Srinivasa Rao Bodduluri, in CMA No. 514 of 2006 and Respondent No. 8 in CMA No. 2585 of 2006, Ravi Shankar Jandhyala, in CMA No. 514 of 2006, Gadi Ramachandra Reddy, in CMA No. 2585 of 2006, for the Respondent

Judgement

C.V. Nagarjuna Reddy, J.—These two M.A.C.M.As. arise out of award dated 08-09-2004 in O.P. No. 287 of 2002 on the file of the Motor Accidents Claims Tribunal - cum - District Judge, Ongole (for short "the Tribunal").

2. While M.A.C.M.A. No. 514 of 2006 is filed by the claimants in the O.P. feeling dissatisfied with the quantum of compensation fixed by the Tribunal, M.A.C.M.A. No. 2585 of 2006 is filed by the Andhra Pradesh State Road Transport Corporation (A.P.S.R.T.C.) questioning the award of compensation. With the consent of learned Counsel for both the parties, they are heard and the appeals are being disposed of by a common order. For convenience, the parties are referred to as they are arrayed in the O.P.

3. On 08-06-2001, Gurijala Venkataiah (hereinafter referred to as "the deceased") along with the Deputy Executive Engineer and some other officials was travelling in jeep bearing No. MH 34F 1314 on official work towards Ongole. When the jeep reached near Katurivaripalem Village, A.P.S.R.T.C. bus bearing No.

AP 10Z 7250 dashed against the jeep on its right side resulting in instantaneous death of the jeep driver and causing grievous head injury to the deceased. The deceased succumbed to the injuries while was being taken to the Government Hospital, Podili. The claimants, who are the family members of the deceased, filed the O.P. claiming compensation of Rs. 10,00,000/-. The Tribunal on the basis of the pleadings of the parties framed the following issues:

1. Whether the accident occurred due to the rash and negligent driving of the driver of the vehicles APSRTC bus bearing No. AP 10Z 7250 or Jeep bearing No. MH 34F 1314 or both?

2. Whether the petitioners are entitled to any compensation? If so, to what extent and from whom?

3. To what relief?

4. On issue No. 1, the Tribunal found that the accident occurred on account of the rash and negligent driving of the driver of the A.P.S.R.T.C. bus. Under issue No. 2, the Tribunal, while accepting the plea of the claimants that the deceased was working as an attender in Executive Engineer's Office, Velugonda Project Division, Markapur, assessed the loss of dependency of the claimants, on the basis of the salary he has last drawn, at Rs. 6,24,000/-. The Tribunal added a sum of Rs. 10,000/- towards consortium, Rs. 5,000/- towards loss of estate and Rs. 2,000/- towards funeral expenses. In all a sum of Rs. 6,41,000/- was awarded as compensation in favour of the claimants. As noted above, both the parties filed their respective appeals.

5. At the hearing, Sri K. Srinivasa Rao, learned standing counsel appearing for A.P.S.R.T.C., submitted that the estimate of compensation by the Tribunal is on a high side. Sri G. Ramachandra Reddy, learned Counsel appearing for respondent No. 9 in M.A.C.M.A. No. 2585 of 2006, supported this submission of the learned standing counsel. Opposing this contention, Sri P. Govinda Rajulu, learned Counsel appearing for the claimants, submitted that the award passed by the Tribunal is not in conformity with the judgments of the Hon''ble apex Court in General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others, , U.P. State Road Transport Corporation and Others Vs. Trilok Chandra and Others, and New India Assurance Co. Ltd. Vs. Charlie and Another, He also placed reliance on the judgment of the Hon''ble Apex Court in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, Supreme Today 487 and submitted that when the deceased left behind five children, widow and dependent mother, the Tribunal ought to have deducted 1/4th of the income towards personal expenses of the deceased and ought to have calculated 3/4th of his income towards contribution to his family. The learned Counsel further argued that as the deceased was aged 36 years and was in a permanent of with the Government, the Tribunal should have considered the prospects of the increments in his salary and ought to have added at least 30% of his last drawn salary as held in Sarla Verma's case (supra 4).

6. I have carefully considered the respective submissions of the learned Counsel for the parties. With regard to the loss of income of the deceased and contribution to the family, the Apex Court in *Sarla Verma* (supra 4) reconciled the varying views expressed in its previous judgments in *General Manager, Kerala State Road Transport Corporation* (supra 1), *U.P. State Road Transport Corporation* (supra 2), and *New India Assurance Company Limited* (supra 3) and held that while computing the contribution to the family, deductions should be made depending upon the number of family members. It is apt to reproduce the relevant portion of the judgment in *Sarla Verma* (supra 4) hereunder:

Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in *Trilok Chandra*, the general practice is to apply standardized deductions. Having considered several subsequent decisions of this Court, we are of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependant family members is 4 to 6, and one-fifth (1/5th) where the number of dependant family members exceed six.

7. Applying the ratio as above, it is not in dispute that the family of the deceased comprised seven persons, viz., five children, widow and dependent mother, and that the mother was alive when the award was passed by the Tribunal and she died during the pendency of this appeal. Considering the fact that the, judgment in *Sarla Verma* (supra 4) was not in existence when the award was passed and the mother of the deceased is no more as of now, I am inclined to take the family members of the deceased as "six" and accordingly hold that appropriate amount of deduction should be 1/4th of the salary of the deceased towards his personal expenses and contribution should be taken as 3/4th of the income.

8. Coming to the contention relating to the salary of the deceased, he was drawing a gross salary of Rs. 5,481/- at the time of his death. The Tribunal has rounded it off to Rs. 6,000/-. In *General Manager, Kerala State Road Transport Corporation* (supra 1), the Hon"ble Supreme Court held that where the deceased was aged between 40 and 50 years and had permanent job, addition of 30% of the salary should be made. Therefore, the Tribunal ought to have added 30% to the sum of Rs. 5,481/- while assessing the loss of dependency. However, before applying the salary for computation, tax deductions if any from the salary are required to be made [*Sarla Verma* (supra 4)]. It is, however, not clear from the material available on record, whether and if so, what are the tax deductions. In the circumstances of the case, it is appropriate that the Tribunal recomputes the compensation taking into consideration the above aspects, viz., 1/4th deduction towards personal expenses of the deceased, treating the salary of the deceased as Rs. 5,481/- plus 30% thereof after deducting the tax deductions from the salary, if any. The Tribunal should re-work out the compensation and pass a fresh award. While dealing with the tax deductions, the Tribunal is entitled to require

the parties to adduce the evidence in that regard. The Tribunal shall pass modified award within a period of three months from the date of receipt of a copy of this order.

9. For the above mentioned reasons, the award of the Tribunal is modified to the extent indicated above.

10. Subject to the above, the M.A.C.M.As. are accordingly disposed of.

11. As a sequel to disposal of M.A.C.M.A. Nos. 514 and 2585 of 2006, M.A.C.M.P. (SR). No. 5432 of 2006 and M.A.C.M.A.M.P. No. 330 of 2010 filed in M.A.C.M.A. No. 514 of 2006, and M.A.C.M.A.M.P. No. 5165 filed in M.A.C.M.A. No. 2585 of 2006 are disposed of as infructuous.