

(2022) 11 TEL CK 0113

In the Telangana High Court

Case No : Motor Accident Civil Miscellaneous Appeal No. 3687 Of 2008

Manda Sunitha And 3 Othersvs Andhra Pradesh State Road Transport Corporation And 2 Othrrs

Date of Decision : 29-11-2022

Acts Referred:

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

Citation : (2022) 11 TEL CK 0113

Hon'ble Judges : G. Anupama Chakravarthy, J

Bench : Single Bench

Advocate : K Venumadhav, N. Praveen Reddy

Final Decision : Allowed

Judgement

1. This appeal is arising out of the orders in O.P.No.214 of 2004, dated 13.09.2005 on the file of Motor Accident Claims Tribunal-cum-Principal District Judge, Warangal.
2. For the sake of convenience, parties are referred to as arrayed in the O.P.
3. The appellants are the claimants. The O.P. was filed by the claimants under Section 166 of the Motor Vehicles Act, claiming compensation of Rs.9,00,000/- on account of death of the deceased/Manda Mohan, in the accident which occurred on 05.02.2004 at 11.00 p.m.. The said accident occurred while the deceased along with one Manda Manohar were proceeding to Nallabelli village in an Auto bearing No.AP-36-V-4950 and when they reached old Bus stand, Atmakur village, the RTC bus bearing No.AP-11-Z-2983, driven by its driver in a rash and negligent manner, dashed against the Auto. As a result, the deceased and his friend sustained grievous injuries and later succumbed to injuries while undergoing treatment in MGM hospital, Warangal.
4. Basing on the complaint of the friend of the deceased, a case was registered against the driver of the Bus in Crime No.20 of 2004 for the offence punishable under Section 304-A of IPC on the file of Atmakur Police Station, Warangal

District. The claimants are the wife, minor children and parents of the deceased. It is the specific averment that the deceased was hale and healthy and was earning Rs.6,000/- as an Auto driver and was contributing the same to the family.

5. A detailed counter affidavit was filed by the respondents disputing the age and income of the deceased. It was further contended that there was no negligence on the part of the driver of the Bus.

6. The Tribunal, after considering the oral and documentary evidence on record, granted a compensation of Rs.3,00,000/-.

7. Being aggrieved as to the quantum of compensation awarded by the Tribunal, the claimants have filed this appeal for enhancement of compensation. So, the appreciation of evidence would be with respect to the quantum alone.

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

9. It is contended by the learned counsel for the claimants that the Tribunal has erred in considering the income of the deceased as Rs.2,000/- per month and prayed to consider the income of the deceased as Rs.4,500/- per month by applying proper multiplier and also to grant future prospects and amounts under other Notional heads while calculating the compensation and prayed to allow the appeal.

10. On the other hand, the learned counsel for the respondent-Insurance Company contended that there is no error or irregularity in the orders passed by the Tribunal so as to interfere with the same and therefore, prayed to dismiss the Appeal confirming the judgment of the Tribunal.

11. On perusal of the entire evidence on record, there is no dispute as to the manner of the accident which occurred on 05.02.2004. PW-1 is the wife, claimants 2 to 4 are the minor children and claimant Nos.5 and 6 are the parents of the deceased. In the absence of proper evidence, the Tribunal has taken the income of the deceased as Rs.2,000/- per month. Ex.A-5 is the driving licence of the deceased, which was in force as on the date of the accident.

12. Admittedly, the age of the deceased as on the date of the accident was 26 years as per Exs.A-2 and A-3 i.e. inquest and postmortem reports of the deceased respectively.

13. The Hon'ble Apex Court in the case of Ramachandrappa v. Royal Sundaram Alliance Insurance Co. Ltd (2011) 13 SCC 236., taken the income of the deceased/coolie, as Rs.4,500/- per month. Therefore, taking into consideration the above said proposition, the income of the deceased is fixed as Rs.4,500/- per month, for the year 2004.

14. As already stated supra, the deceased was aged about 26 years as on the date of the accident and the income of the deceased can be taken as Rs.4,500/- per month. If 40% future prospects is added, it would come to Rs.6,300/- (Rs.4,500+1800). The claimants in this case are six in number and 1/4th has to

be deducted if the number of dependants are 4 to 6. Thus, his contribution towards family would come to Rs.4,725/- (Rs.6,300 – 1,575) 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 '17' for the age group of 26 to 30 years. If the annual income and multiplier '17' are applied, then, the loss of earnings of the deceased would be Rs.9,63,900/- (Rs.4,725 X 12 X 17).

15. As per the judgment of Hon'ble Supreme Court in National Insurance Co. Ltd. v. Pranay Sethi & others 2017 ACJ 2700, wife and children of the deceased (appellants before the Court) are entitled to Rs.40,000/- each towards consortium and Rs.15,000/- towards funeral expenses and another Rs.15,000/- towards loss of estate.

16. Thus, the appellants are entitled to the compensation under the following heads;

1.

Loss of dependency

Rs.9,63,900/-

2.

Funeral expenses

Rs.15,000/-

3.

Consortium (Rs.40,000/- each to the wife and 3 children of the deceased)

Rs.1,60,000/-

4.

Loss of estate

Rs.15,000/-

TOTAL

Rs.11,53,900 /-

17. Accordingly, the appeal is allowed, granting a total compensation of Rs.11,53,900/- with costs and interest at the rate of 7.5% per annum from the date of petition till the date of realisation, payable by respondent No.1/RTC within one month from the date of receipt of a copy of this order. Appellant Nos.2 to 4 were minors as on the date of filing of appeal i.e. on 08.09.2008, and as on today, they became majors. Therefore, all the appellants are equally entitled for the compensation amount and they are permitted to withdraw their respective shares, on payment of deficit Court fee.

Pending miscellaneous applications, if any, shall stand closed.