
(1992) 01 AP CK 0007

In the Andhra Pradesh High Court

Case No : Appeal Against Order No. 251 of 1988

S. Seetharamamma

APPELLANT

Vs

Kobagapu Krishnaveni and Others

RESPONDENT

Date of Decision : 23-01-1992

Acts Referred:

Motor Vehicles Act, 1939 — Section 110D

Citation : (1992) 3 ALT 210

Hon'ble Judges : Radhakrishna Rao, J

Bench : Single Bench

Advocate : D. Venkataramana Sarma, for the Appellant; A. Surya Rao, M. Srinivasa Rao, for the Respondent

Final Decision : Dismissed

Judgement

Radhakrishna Rao, J.—The respondent No. 2 in O.P. No. 20/1987 on the file of the Motor Accidents Claims Tribunal (Additional District and Sessions Judge) Srikakulam is the appellant herein.

2. This Appeal has been filed by the wife of the owner of the vehicle on the ground that the amount that has been granted is highly excessive and also on the ground that in view of the distribution that has been made to the major sons, it has to be reduced. This appeal is filed against the award of the Tribunal to pay Rs. 45,000/- by the owner. The deceased was travelling as a passenger. As per the statutory liability, the liability is on the owner of the bus and the Insurance company. The liability of the Insurance Company is fixed at Rs. 15,000/- and the remaining liability has been fixed on the owner of the vehicle. The owner having aggrieved by the award of Rs. 45,000/- filed this appeal. In regard to the rash and negligent Act of the driver of the Vehicle, we are having the evidence of the P.W. 2 who is the direct witness. On behalf of the respondents also one witness was examined. On perusing the evidence and the report of the conductor that has been given, the lower Court has rightly discarded the evidence of R.W. 1 as it is not consistent with the earlier version. If R.W. I has been discarded, the only

evidence that is available is P.W. 2. P.W. 2 has graphically described about the accident and his evidence clearly discloses that it is a case of rash and negligent act of the driver of the vehicle. The same finding is confirmed.

3. With regard to the income potentialities the lower Court came to the conclusion that he would have spared Rs. 300/- per month, as loss of dependency and it cannot be said that the fixing of the amount of Rs. 300/- as the loss of dependency is on high side. Normally, the labourer will get not less than Rs. 10/- and it will come to Rs. 300/- per month and the loss of dependency that has been fixed by the lower court has to be confirmed. The Lower Court has granted very low consortium and as no cross-appeal has been filed this Court is not in a position to increase the same. It has been contended by the Learned counsel for the appellant that as the Tribunal has awarded some amount to the major sons out of the amount that has been fixed as compensation, it must be presumed that the amount that has been awarded is on the high side. Neither the Insurance Company nor the owner of the vehicle have any right to raise the contention that simply because the amount has been awarded to some persons out of the claimants that the amount awarded is on the high side. It is the duty of the Tribunal to ascertain the loss of dependency, on account of the death of the person. So long as the loss of dependency that was ascertained by the Tribunal is correct, neither the owner of the vehicle nor the Insurance Company, have any right to agitate that simply because some amount has been awarded to major sons or to some married daughters, the award is on the high side. If the amount so arrived at has been granted to major sons or married daughters it is for the other claimants to agitate in the appeal that the apportionment made by the Tribunal in favour of some persons is not correct. While apportioning the amount it is the duty of the Tribunal to see that eligible persons alone will be entitled for the amount that has been fixed as compensation towards loss of dependency. The contention of the owner of the lorry that because major sons were granted compensation, the High Court as an appellate authority has right to interfere and reduce the quantum of compensation has no force at all, as this Court finds that what has been awarded is a reasonable compensation.

4. In the result the appeal is dismissed. No Costs.