
(1996) 10 AP CK 0060
In the Andhra Pradesh High Court
Case No : CMA. No. 1231 of 1990

Smt. K. Lingavva and Others	Vs	APPELLANT
The Managing Director, APSRTC and Another		RESPONDENT

Date of Decision : 15-10-1996

Acts Referred:

Motor Vehicles Act, 1939 — Section 110A, 110B

Citation : (1997) 1 ALT 75

Hon'ble Judges : B.K. Somasekhara, J

Bench : Single Bench

Advocate : Vijayanthi, for the Respondent

Final Decision : Allowed

Judgement

B.K. Somasekhara, J.—The order of dismissal of the claim petition by the Motor Accident Claims Tribunal, Nizamabad in O.P.No. 243 of 1988 dated 12-6-1990 is questioned by the claimants who lodged the claim u/s 110-A of the M.V. Act, 1939 (for short, the Act) for recovery of Rs. 1,00,000/- alleging that their bread earner K. Ramaiah was killed in a motor vehicle accident caused (due) to the rash and negligent driving of the bus AAZ 7347 by its driver on 7-9-1988 wherein he sustained injuries and died on 17-9-1988. The claim was resisted denying the negligence on the part of the driver of the bus and entitlement of the claimants to get the compensation and the cause of the death being injuries due to the accident. The Tribunal came to the conclusion that the deceased having died ten days after the accident without there being a proof between the death and the injuries, there was no reason to treat the case as one of death to award compensation to the claimants. At the same (time) a finding was recorded that the accident was due to the rash and negligent driving of the bus by its driver.

2. The learned Counsel for the claimants contends that the Tribunal instead of making use of the materials on record viz, Ex. A-4, the inquest report showing the cause of death as the accident and instead of giving opportunity to the claimants to produce materials, has come to the conclusion that for want of

materials the death due to the accident is not established. According to him, the dismissal of the petition is unjustified.

3. Smt. Vijayanthi, the learned Standing Counsel for the respondent-Corporation has contended that when the claimants did not produce necessary materials to establish the cause of the death being the injuries suffered by the deceased in the accident, the Tribunal had no option but to dismiss the petition.

4. In so far as the finding of negligence is concerned regarding the cause of the accident, there is no reason to question it as there is neither any cross-objection or cross-appeal filed by the respondents. Ex. A-4, the certified copy of the inquest report indicates that the death was due to the injuries suffered by the deceased in the accident. In spite of it, the Tribunal held that there was no material to prove the cause of the death being the accident. There is a clear indication in the Judgment of the Tribunal that post-mortem was conducted on the dead body of the deceased, however it was not produced. The learned Counsel for the claimants has shown the certified copy of the post-mortem report regarding which Smt. Vijayanthi has no serious objection to go through and form impression about the correctness of the inquest report. At this stage, it may be necessary to point out that the Tribunal, dealing with the claim petitions, is not a Court and it is a creature of Administrative law dealing with the social piece of legislation to ameliorate the victims of the accident and the legal representatives of the victims. It is well known that the technical rules of evidence are not applicable in such proceedings although the spirit and the principle behind it may be adopted as far as possible to meet the ends of justice. There are instances wherein mere production of the documents are being taken as proof to look into such materials to know the truth of the matter. Particularly when there is an indication in the Judgment that there was post-mortem conducted on the dead body of the deceased, there was no harm in looking into the certified copy of the post-mortem report produced by the learned counsel for the claimants, which Smt. Vijayanthi, the learned Counsel for the respondents had the opportunity to look into. When the object is to achieve the ends of justice which is sub served by adopting such a procedure, this Court will not be in error in forming an impression with the contents of such a post-mortem report to ensure that the contents of Ex. A-4 .are correct or not. Having done so, this Court is totally convinced that the death was due to the injuries suffered by the deceased in the accident. If the Tribunal had adopted the same procedure or called upon the claimants to produce the post-mortem report or got the police records, possibly the inference would have been the same. Even assuming that there is no such material before the Court, in the nature of the case, it is a fit case to remand for fresh disposal of the matter according to law whereby for the same inferences there would been loss of time, money and waste of energy over a matter which can be disposed of with such materials in this Court only. Adopting such a method, this Court finds that the death of the deceased was due to the injuries suffered by him in the accident and not due to any other reason and consequently the order of the Tribunal becomes liable to be set aside.

5. There are also materials on record to assess the compensation. The age of the deceased, from the post-mortem report, Ex. A-1, is fixed as 70. Therefore, for the age of the deceased at 70, the multiplier should be 6. The income of the deceased was fixed at Rs. 300/-. Deducting 1/3 rd towards his personal expenses, he was able to contribute. Rs. 200/- per month or Rs. 2400/- per annum, which represents the multiplicand in this case. With such multiplicand and the multiplier of 6, the loss of dependency or the loss of contribution to the family would be Rs. 14,400/-. Having due regard to the age of the deceased and the claimants, Rs. 7500/- towards loss of expectation of life and Rs. 7500/- towards loss of consortium to claimant No. 1 would be reasonable. Adding Rs. 3000/- towards funeral and other incidental expenses., the total compensation in this case ought to be Rs. 32,400/-. Thus, the appeal should succeed.

6. The Appeal is allowed and the order of the Tribunal is set aside and the following award is passed. The claimants shall be entitled to recover a sum of Rs. 32,400/- from the respondents by way of compensation together with costs of the proceedings throughout and interest at 12% p.a. from the date of petition till the date of payment. The amount of Rs. 7,500/- awarded towards loss of consortium to claimant No. 1 shall be paid to her exclusively. The remaining amount shall be apportioned at the rate of 40% to claimant No. 1 and 20% each to claimants 2 to 4 respectively. If any amount is paid/ deposited it shall be deducted. However, this shall be subject to deposit of the amount in any Nationalised/Schedule Bank as per the guidelines issued by the Supreme Court in Susamma Thomas case.