

(1993) 10 AP CK 0026

In the Andhra Pradesh High Court

Case No : Appeal Against Order No. 279 of 1989

The Depot Manager, APSRTC Bhadrachalam Depot and
Another

APPELLANT

Vs

Ponaganti Appamma and Others

RESPONDENT

Date of Decision : 07-10-1993

Acts Referred:

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

Citation : (1993) 3 ALT 735 : (1994) 1 APLJ 387

Hon'ble Judges : G. Radhakrishna Rao, J

Bench : Single Bench

Advocate : Vada Rajagopal Reddy, for the Appellant; R. Subhash Reddy, for Respondents 1 and 2, for the Respondent

Judgement

G. Radhakrishna Rao, J.—This is an appeal preferred by the APSRTC (respondents) challenging the judgment dated 2-8-1988 passed by the Motor Accidents Claims Tribunal, Khammam in MATOP No. 183 of 1987 on his file, awarding a total compensation of Rs. 72,600/- for the death of the deceased in a road accident on 23-5-1987 on account of the rash and negligent driving of the bus AAZ 3759 driven by the 2nd respondent before the lower tribunal.

2. So far as the finding with regard to the rash and negligent driving of the vehicle is concerned, the Lower Tribunal considered the evidence of P.W.I and Exs.A-1 to A-3, and held that the accident occurred on account of the rash and negligent driving of the bus by its driver, the first respondent. On an independent assessment of the evidence by me also, I find that the accident was the result of the rash and negligent driving of the bus by the 1st respondent.

3. As regards the compensation, the learned Standing Counsel for the APSRTC vehemently contended that the award of compensation of Rs. 72,600/- is on the higher side. In the case of persons who are not having any permanent work, only certain guess work was to be made in arriving at the just and reasonable compensation taking into account the normal earnings of the deceased. In this

case the Lower Tribunal having found that the deceased was a dobhi by caste and by his profession his income can be estimated at Rs. 500/- per month and out of this his family contribution would be Rs. 300/-per month, and by applying a multiplier of 16 ultimately granted Rs. 57,600/-towards loss of dependency. The Lower Tribunal also granted Rs. 5,000/-towards loss of consortium to the 1st petitioner Rs. 5,000/- towards pain and suffering, making the total compensation to Rs. 72,600/-. Generally compensation has to be fixed taking into account, the age of the deceased, the income potentiality of the deceased, the size of the family and other attendant circumstances. Each case has to be decided depending upon the merits of that case. Only guess work has to be done in arriving at the just compensation payable to be respondents of the deceased. The amount of compensation as granted by the lower Tribunal cannot be disturbed unless it is patently wrong. So far as applying of multiplier of 16 by the Lower Tribunal, taking into account the monthly contribution to the deceased's family at Rs. 300/-, is concerned, it can be accepted taking into account the particular facts and circumstances of this case. But as regards the compensation of Rs. 5,000/- granted on account of loss of expectancy of life and Rs. 5,000/- towards pain and suffering, I feel that they cannot be granted. When a person died in an accident and when certain amount is being granted to the petitioners towards compensation taking into account the contribution of the deceased to the family, I feel that there is no need to grant any additional compensation under the heads loss of expectancy of life and towards pain and suffering. However, the wife is entitled to some amount towards loss of consortium and the amount of Rs. 5,000/- as awarded by the Lower Tribunal is just and does not call for interference. So, in all an amount of Rs. 10,000/- has to be deducted from the amount of compensation as granted by the Lower Tribunal, and this shall be deducted from the amount payable to the 1st petitioner, viz., the 1st petitioner is entitled to Rs. 37,600/-. In other respects the judgment of the Lower Tribunal stands confirmed.

4. The appeal is accordingly allowed in part. No costs.