

(2006) 09 AP CK 0011

Andhra Pradesh High Court

Case No: C.M.A. No. 48 of 2005

Depot Manager, A.P.S.R.T.C. and
Another

APPELLANT

Vs

Puligurthi Kumar Swamy and
Others

RESPONDENT

Date of Decision: Sept. 26, 2006

Acts Referred:

- Motor Vehicles Act, 1988 - Section 166

Citation: (2007) 1 ACC 79 : (2007) 1 ALT 441

Hon'ble Judges: D.S.R. Varma, J

Bench: Single Bench

Advocate: Y. Vivekananda Swamy, for the Appellant; Jayanti, S.C. and Sekhar, for the Respondent

Judgement

D.S.R. Varma, J.

Heard.

2. This Civil Miscellaneous Appeal is directed against the order and decree, dated 17-4-2003, passed by the Motor Accidents Claims Tribunal-cum-Additional District Judge, Vizianagaram (for brevity "the Tribunal"), partly allowing the petition M.O.P. No. 376 of 2000, filed u/s 166 of the Motor Vehicles Act, 1988, and awarding a sum of Rs. 3,90,000/-, as against the claim of Rs. 8,00,000/- towards compensation for the death of one Puligurthi Syama Sunder, (for brevity "the deceased") in a road accident that occurred on 20-5-2000; while the cross objections are filed by the claimants, who are parents of the deceased, seeking enhancement in the compensation.

3. Appellants are the officials of Andhra Pradesh State Road Transport Corporation and the respondents are the claimants, in the said O.P., before the Tribunal.

4. For the sake of convenience, in this judgment, the appellants and the respondents will be referred to as "the Corporation" and "the claimants", respectively.

5. The Tribunal, having considered the entire material, including the evidence, both oral and documentary, available on record, held that there was rashness and negligence on the part of the driver of the bus, belonging to the Corporation, and eventually awarded a sum of Rs. 3,90,000/-, towards compensation to the claimants, with interest at 9% p.a. from the date of petition till the date of realization. In arriving at such a quantum, the Tribunal below determined the monthly contribution of the deceased to the claimants at Rs. 4,000/- and adopted multiplier "8".

6. It is the contention of the learned Counsel for the Corporation that the deceased being unmarried, the Tribunal ought to have adopted multiplier "6.31" appropriate to the ages of the claimants, in terms of the decision of this Court in Bhagwandas Vs. Mohd. Arif, and, therefore, the quantum of compensation is liable to be proportionately reduced.

7. On the other hand, the learned Counsel for the claimants vehemently contends that the Tribunal below has erred in deducting more than 1/3rd of the earnings of the deceased. He also contends that the Tribunal has not awarded any compensation for non-pecuniary damages.

8. The deduction of more than 1/3rd by the Tribunal below towards personal expenses of the deceased from his net salary, and assessing the contribution to the claimants at Rs. 4,000/- per month, in my considered view is erroneous. Admittedly, the net pay of the deceased was Rs. 7,545/. Therefore, it is appropriate to assess the monthly contribution of the deceased to the claimants at Rs. 5,000/-.

9. Admittedly, the deceased was unmarried and, therefore, the average age of the claimants shall be reckoned for the purpose of arriving at the computation of the loss of earnings. Therefore, the proper multiplier applicable in the present case is "6.31" appropriate to the age of the mother of the deceased and not "8", as adopted by the Tribunal. Thus, the claimants are entitled to a sum of Rs. 3,78,600/-, towards loss of earnings.

10. The learned Counsel for the claimants - cross-objectors submits that future prospects of the deceased were not taken into consideration. It is further submitted that the deceased was aged 28 years at the time of accident and working with a reputed organization and he had a bright chance for career escalation.

11. The said submissions cannot be accepted for the reasons that the deceased was rendering services to a private organization and there is no likelihood of his continuing in the employment in the same organization, inasmuch as if the company feels that the services of persons like the deceased, are not required, their services would be retrenched or as and when a better opportunity is offered, the

deceased may also opt for the same. Thus there is any amount of uncertainty about his employment and future prospects. Therefore, the contention regarding future prospects, advanced by the learned Counsel for the claimants, cannot be accepted.

12. As rightly contended by the learned Counsel for the claimants, the Tribunal has not awarded any amount towards loss of estate. The conventional figure under this head, to the minimum, is Rs. 15,000/-. However, having regard to the facts and circumstances of the case, more particularly, having regard to the age of the deceased, I deem it expedient to fix the same at Rs. 20,000/-. Thus, in all, the claimants are entitled to a compensation of Rs. 3,98,600/-, which, I feel it expedient to round off to Rs. 4.00 lakhs (Rupees Four lakhs).

13. Consequently, both the Civil Miscellaneous Appeal and the Cross Objections are allowed in part enhancing the compensation from Rs. 3,90,000/- awarded by the Tribunal to Rs. 4,00,000/- (Rupees four lakhs only). The additional amount of Rs. 10,000/- (Rupees ten thousands only) which is now awarded by this Court, shall carry interest at 6.5% p.a. from the date of petition till the date of realization. In all other aspects and respects, the impugned award and decree passed by the tribunal shall remain unaltered. No order as to costs.