

THE HON'BLE SRI JUSTICE V.SRINIVAS

M.A.C.M.A.No.87 of 2022

JUDGMENT:

This appeal is filed against the order,dated 01.12.2021 passed in M.V.O.P.No.1 of 2019on the file of the Chairman, Motor Accident Claims Tribunal-cum-VAdditional District Judge,Rayachoty(hereinafter called as 'the Tribunal').

2. Appellant No.1 is the A.P.S.R.T.C., represented by its Managing Director (Respondent No.1 herein),Appellant No.2 (Respondent No.2 herein) is the Depot Manager of the A.P.S.R.T.C,Respondent Nos.1 to 3 are claimants, Respondent No.4 herein is the driver of the crime vehicle and Respondent No.5 herein is the conductor of the crime vehicle.

3. For the sake of convenience, the parties are hereinafter referred to as they are arrayed before the Tribunal.

4. The case of the claimants in the petition before the Tribunal is that:

- i) Petitioner Nos.1 and 2 are the parents and petitioner No.3 is the sister of the deceased Pasupuleti Rajesh and the deceased was studying Pharma-D fifth year in Raghavendra college,

Ananthapuram. On 01.09.2018, at about 9.00 a.m., the deceased, Pasupuleti Rajesh, went to R.D.T. Hospital, Bathapalli Village, along with his classmates and after completing his internship work, in the evening at about 4.30 p.m., they reached Bathalapalli Circle to go to Ananthapur town and there, the deceased along with one Aravind, mount the APSRTC bus bearing No. AP29Z0487 belongs to the Dharmavaram Depot which did not stop and while the bus was in motion, the said Aravind managed to get inside and while the deceased Rajesh was standing on the footboard, at that time the respondent No.3, driver of the said bus drove the bus in a negligent manner without noticing the passengers. Simultaneously, another APSRTC bus which was traveling towards Ananthapuram had stopped on the road and as the RTC bus in which the deceased was boarding came very close to the stationed bus, the deceased crushed between the two buses, fell immediately, and sustained grievous injuries on his entire body. He was taken to the Government Hospital, R.D.T. Hospital, Bathalapalli. Later, his parents shifted him to ASTER CMI Hospital, Bangalore, where he succumbed to injuries on 04.09.2018 while undergoing treatment.

- ii) On to the death of deceased, the claimants claimed compensation of Rs.37,00,000/- against the Respondents.

5. Respondent Nos.2 to 4 remained *ex parte*. Respondent No.1 filed written statement denying the averments of the petition. It was further submitted that the deceased negligently stood on the footboard without knowledge of the bus driver and conductor and that he himself fell down from the footboard. It was also stated that there was no rash or negligent driving on the part of the bus driver and that the accident occurred solely due to the negligent act of the deceased. The respondent No.1 categorically denied the occurrence of the accident and involvement of the vehicle in the alleged accident and the age of the deceased. It is further contended that the petitioners are liable to prove the same by filing authentic documentary evidence and to establish that they are the legal heirs of the deceased by producing documentary proof. It further denied the allegation that the deceased was earning Rs.10,000/- per month is absolutely false and the petitioners must prove the same through documentary evidence. Additionally, it is argued that the compensation claimed

under different heads was highly excessive and without any basis. Therefore, sought the dismissal of the petition.

6. The tribunal settled the following issues for enquiry basing on the material:

“1. Whether the accident occurred due to the rash and negligent driving of the driver of APSRTC bus bearing No.AP29Z0487 belonging to the Respondent No.1, near Bathalapalli Circle leading to Ananthapuram Road, which resulted in causing death of the deceased Pasupuleti Rajesh on 01.09.2018 at 04.30 P.M.?

2. Whether the claimants are entitled to compensation, if so, to what amount and from which of the respondents?

3. To what relief?”

7. During the enquiry, on behalf of the claimants, PWs.1 to 4 were examined and Exs.A1 to A17 were marked along with Ex.C1, which was marked through the Advocate Commissioner. On behalf of the Respondent No.1, no oral or documentary evidence was adduced.

8. On considering the material on record and the documentary evidence, the tribunal concluded that the

petitioners are entitled for compensation of Rs.23,01,199/- with interest and costs against the Respondent No.1.

9. It is against the said order, the present appeal was preferred by the appellants/Respondent Nos.1 and 2/APSRTC.

10. Heard Sri Aravala Rama Rao, learned Standing Counsel for the appellants/APSRTC and Sri G.V.S.Mehar Kumar, learned counsel for the Respondent Nos.1 to 3/Claimants.

11. Now, the only point that arises for determination is "whether the award passed by the Tribunal is liable to set aside, if so, to what extent?"

12. **POINT:**

It is not in dispute that the deceased died in a road accident, while boarding an APSRTC bus. In order to prove the rash and negligent act of the driver of the APSRTC bus the 1st petitioner being the father of the deceased was examined as P.W.1, but admittedly he is not an eyewitness to the accident, P.W.4 who is said to be an eyewitness to the accident. Reiterated the contents of the claim petition. Though he was cross-

examined elaborately by the respondent No.1 but nothing favour was elicited denying the negligence on the part of the APSRTC bus. In support of the oral statement EX.A.1 to A.17 are marked among which Ex.A.1 is the FIR registered against the driver of the APSRTC bus and Ex.A3 is the charge sheet filed against the APSRTC bus driver. Which clearly shows that the rash and negligent driving of the driver of the bus and there is no cogent and convincing evidence to disprove the same. Hence, this court holds that the accident occurred ultimately due to the negligent act of the driver of the RTC bus itself.

13. Coming to the quantum of compensation the petitioner is pursuing D-pharmacy and the accident occurred in the year 2018. Since the deceased is a student of Pharma-D, ultimately if he get a job he may earn more than Rs.20,000/- per month and tribunal have rightly notionally took the income of the deceased Rs.20,000/- per month and have rightly applied the multiplier in accordance with the **Sarla Verma's case** and in addition to the said amount have awarded the amount for medical bills funeral expenses and towards love and affection. In and total the tribunal has rightly appreciated the evidence on record and awarded the

compensation along with the conventional heads in total Rs.23,01,199/- which is a just compensation. Against the respondent Nos.1 to 4 jointly and severally with proportionate costs and interest in the right of the above discussion, this Court finds no merits in the award passed by the tribunal. The point is answered accordingly.

14. In the result, the appeal is dismissed. There shall be no order as to costs.

Interim orders granted earlier if any, shall stand vacated.

As a sequel, miscellaneous petitions pending if any, shall stand closed.

JUSTICE V.SRINIVAS

Date:10.03.2025
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