

SMT JUSTICE T. RAJANI

M.A.C.M.A. No.125 of 2019

ORDER:

This appeal is preferred, under Section 173 of the Motor Vehicles Act, 1988 (the Act), assailing the judgment and award dated 03.10.2018 passed in M.V.O.P. No.1555 of 2014 on the file of the Motor Accidents Claims Tribunal-cum-II Additional District Judge, Visakhapatnam, by virtue of which Tribunal awarded compensation of Rs.6,46,000/- to respondent Nos.1 to 3-claimants, who are the dependants of the deceased-Ponnada Sankaram, who died in a motor accident that occurred on 29.5.2014.

2. Heard the standing counsel for the appellants-A.P.S.R.C., and the counsel for the respondents-claimants.

3. The facts of the case are that while the deceased was going on motor cycle bearing No.AP 31CA 6261, driving the same, an APSRTC bus bearing No.AP 29Z 3829 came from behind and dashed against the motor cycle, which resulted in instantaneous death of the deceased. The deceased was a retired employee of Visakhapatnam Port Trust and he was drawing pension of Rs.17,400/- per month. The Tribunal, by considering the loss of contribution to the family as Rs.11,680/- per month and applying the multiplier "7", awarded compensation of Rs.6,46,000/-. Against the said judgment, this appeal is preferred on the grounds that the Tribunal did not consider the evidence of P.W.2, who stated that there was contributory negligence on the part of the deceased. The Tribunal awarded

the compensation based on the pension slip, though nobody was examined to speak about the same. Based on the above grounds, the appellants seek to set aside the said judgment.

4. A perusal of this order shows that though a plea was taken by the appellant that there was contributory negligence on the part of the deceased, absolutely no evidence was adduced, to prove the said fact. The evidence of P.W.2 shows that while he was going in an auto, he saw that the bus came behind and dashed the motor cycle on its one side, due to which the deceased fell down and the rear wheel of the bus ran over the deceased. The said evidence of P.W.2 does not help the appellants, as it would only go to suggest that the accident occurred due to rash and negligent driving of the driver of the APSRTC bus. Hence, the finding of the Tribunal on the aspect of contributory negligence cannot be interfered with.

5. As regards the compensation, nobody was examined to speak about the pension that the deceased was drawing. But, however, the fact remains that he is a retired employee of Visakhapatnam Port Trust. There is no reason not to accept the pension slip, which is marked as Ex.A.2. There is likelihood of the pension being enhanced in future, whenever there is revision of pay scales. The Tribunal did not take into consideration the possible enhancement of the pension. Hence, this Court opines that even if it is considered that the Tribunal awarded more compensation, it would balance when future enhancement of the pension is considered. On that premise,

this Court opines that the amount of compensation awarded by the Tribunal needs no interference.

7. Accordingly, the appeal is dismissed. Miscellaneous petitions if any pending in this appeal shall stand closed.

June 28, 2019.
YS

SMT T. RAJANI, J