

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

MACMA No.3654 OF 2014

Between:

1. P.Manasa @ Manga
2. P.Aarshitha
3. P.Bharathi

...Appellants/Claimants

And

1. APSRTC, rep. by its Managind Director,
Musheerabad, Hyderabad.
2. APSRTC, rep. by its Depot Manager,
Hasnabad, Karimnagar District.

... Respondents

DATE OF JUDGMENT PRONOUNCED: 18.03.2024

Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

- | | | |
|---|--|--------|
| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

K.SURENDER, J

*** THE HON'BLE SRI JUSTICE K. SURENDER**

+ MACMA No.3654 OF 2014

% Dated 18.03.2023

1. P.Manasa @ Manga

2. P.Aarshitha

3. P.Bharathi

...Appellants/Claimants

And

\$ 1. APSRTC, rep. by its Managind Director,
Musheerabad, Hyderabad.

\$ 2. APSRTC, rep. by its Depot Manager,
Hasnabad, Karimnagar District.

... Respondents

! Counsel for the Appellants: Sri Kota Subba Rao.

^ Counsel for the Respondents 1 & 2: Sri N.Vasudeva Reddy
Standing Counsel for APSRTC.

>HEAD NOTE:

? Cases referred

¹ 2001 ACJ 1273

² (2017) 16 SCC 680

³ (2009) 6 SCC 121

THE HON'BLE SRI JUSTICE K.SURENDER**MACMA.No.3654 OF 2014****JUDGMENT:**

1. The appellants/claimants are aggrieved by refusal of the Tribunal to grant compensation, have filed the present appeal.

2. Briefly, the case of the claimants who are wife, child and mother of the deceased is that the deceased along with PW2 was going on a two wheeler on 29.12.2010 and when they reached railway flyover bridge near Bollarum Rythubazar, the offending RTC bus proceeding in the same direction, dashed the two wheeler from back side in a rash and negligent manner, resulting in the deceased and another-PW2 falling down and receiving injuries. Passersby called up the Ambulance and accordingly they were shifted to Hospital. While undergoing treatment the deceased died on the same day. The brother of the deceased lodged FIR before the concerned police station stating that an unknown vehicle hit the two wheeler and resultantly the deceased fell down. Passersby called the Ambulance and accordingly they were shifted to the hospital.

3. The Tribunal refused compensation to the claimants on the ground that the claimants were not able to prove that the accident

had taken place in the manner they have spoken to. The Tribunal further found that the offending vehicle-bus which is AP 28 Z 3306 was not involved in the accident since the bus number or the type of vehicle which was involved in the accident was not mentioned in the FIR. The Inquest Report also indicates that it was an unknown vehicle that dashed against the two wheeler. The other reason for refusing the compensation was that PW2 who was a pillion rider did not state about the RTC bus at the earliest point of time. However, he had informed about the RTC bus only when he was examined by the Police before filing charge sheet.

4. Learned Counsel appearing for the appellants would submit that the Tribunal had committed an error in coming to the conclusion that the bus was not involved. In the counter filed by the RTC, it is stated that the vehicle had contributed to the accident as he was negligent in driving the vehicle. However, it is not disputed that the bus was not involved.

5. RW1 is the driver in APSRTC who had driven the bus. He stated that though the bus was plying on the road on a daily basis, they were not present at the time when the alleged accident had taken place. He stated that, taking advantage of the knowledge that the bus which was regularly plying on the road,

twice in a day, there was collusion in between the claimants with the Police and a false case was registered, only to extract money from RTC.

6. The counsel appearing for the RTC would submit that the Tribunal having considered the entire evidence on record both oral and documentary found that the case was made up by the claimants for a false claim. The Tribunal had correctly refused compensation. The appeal has to be dismissed and the RTC cannot be made liable.

7. The FIR and the Inquest Report reflect that an unknown vehicle hit the two wheeler of the deceased. The said information in the FIR was given by the brother of the deceased who was not present at the scene. He lodged the complaint on the basis of the information received by him on phone. Further, the inquest report also does not make a mention about the bus being involved in the accident.

8. As seen from the charge sheet, the driver of the bus was arrested on 03.01.2011 i.e. within 4 days of the incident. The Police identified the bus which caused the accident during their investigation as AP 28 Z 3306 and contacted the Manager of Husnabad Depot, explained the facts and then the bus driver was

arrested. The crime vehicle which is bus was also subjected to examination by the motor vehicle inspector. The identity of the driver of the bus was within four days of the accident. It cannot be said that the police would have falsely implicated the RTC bus and the driver who is a public servant in a false accident unless their investigation discloses that it was the driver who was involved. The findings of the Tribunal that the details of the vehicle were not found in FIR and also the Inquest Report cannot form basis to disregard the investigation of the Police in identifying the crime vehicle and also the driver which is within four days of the accident.

9. In the Judgment of ***Laxmibai v. Karnataka State Road Transportation Corporation***¹, the Honourable Supreme Court found that non production of copies of log-sheet and control charts to show that the bus in question was plying on the road on the date of accident, cannot be made basis to decline compensation and the Courts shall not act hyper technically while determining a case of compensation.

10. In the said circumstances, this Court is inclined to set aside the findings of the Tribunal that the offending vehicle was not the

¹ 2001 ACJ 1273

RTC bus which was involved on the basis of evidence, the accident occurred due to the rash and negligent driving of the driver of the offending RTC bus.

11. Coming to the quantum of compensation to be awarded to the claimants is concerned, the claimants made claim petition seeking compensation at Rs.18,00,000/-. The deceased used to work in I-Cube Marketing on a monthly salary of Rs.14,700/- and the claimants filed salary certificate Ex.A10 at the earliest point of time. However this Court, deems it appropriate to consider the income of the deceased at Rs.13,000/- per month for calculating the loss of income due to the death of the deceased. In view of the law laid down by the Honourable Supreme Court in ***National Insurance Company Limited v. Pranay Sethi and others²***, future prospects @ 40% of the income of the deceased has to be added which comes to Rs.5,200/- per month. Then the total income of the deceased per month is Rs.18,200/-(13,000 + 5,200). The annual income of the deceased comes to Rs.2,18,400/-p.a. (18,200 x 12). Since the dependents are 3 members, 1/3rd of the income i.e. Rs.72,800/-(2,18,400x1/3) has to be deducted towards personal expenses which comes to Rs.1,45,600/- p.a.(2,18,400 - 72,800). As per the Judgment of Honourable

Supreme Court in **Sarla Verma v. Delhi Transport Corporation**³ the relevant multiplier for the age group of 31-35 is '16' and then the loss of income due to the death of the deceased comes to Rs.23,29,600/-(1,45,600 x 16).

12. As per the decision of the Constitutional Bench of Apex court in case of **Pranay Sethi's case**, the conventional heads namely loss of estate, loss of consortium and funeral expenses should be Rs.15,000/-, Rs.40,000/- and Rs.15,000/-, respectively and the same should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10%. Then the total consortium comes to Rs.1,45,200/-(1,20,000 x 10% for every three years) and Loss of Estate and funeral expenses comes to Rs.36,300/- (15,000 + 15,000 + Add 10% for every three years).

13. In total claimants are entitled to compensation of Rs.25,11,100/-(23,29,600+ 1,45,200 + 36,300).

14. Accordingly, MACMA is allowed and the appellants/claimants are granted compensation of Rs.25,11,100/- with interest @ 7.5% from the date of petition till the date of realization payable by respondents 1 and 2, jointly and severally.

² (2017) 16 SCC 680

³ (2009) 6 SCC 121

All the three claimants are entitled to the aforesaid compensation in equal shares.

15. The claimants have to pay the deficit Court fee or the Tribunal may deduct the amount required for the purpose of Court fee from the amount awarded to the claimants after respondents Insurance Company deposits the amount.

As a sequel, miscellaneous applications, if any, pending in this appeal shall stand closed.

K.SURENDER, J

Date: 18.03.2024
tk