

tB IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 1541 OF 2004

REGIONAL MANAGER, A.P.S.R.T.C. APPELLANT
VERSUS
DAMARA LAXMI @ LAXMAMMA & ORS. RESPONDENTS

WITH
CIVIL APPEAL NO. 1540 of 2004

DAMARA LAXMI @ LAXMAMMA & ORS. APPELLANTS
VERSUS
REGIONAL MANAGER, A.P.S.R.T.C. RESPONDENT

O R D E R

These two appeals, one (Civil Appeal No.1541/2004) at the instance of the Regional Manager, Andhra Pradesh State Road Transport Corporation (in short 'APSRTC') and the other (Civil Appeal No.1540/2004)) at the instance of claimants are directed against a common judgment of the High Court arising from a motor accident claim.

An accident ¹ took place involving a bus of the APSRTC and a scooter resulting in the death of the scooter rider. In the proceeding arising from the claim petitions filed by the mother and other heirs of the deceased the Motor Accident Claims Tribunal came to the finding that the accident was not caused due to any negligence on the part of the bus driver. It, therefore, rejected the claim petition holding that the claimants

were not entitled to any compensation.

However, in appeal, the High Court, on a re-appraisal of the evidence reversed the Tribunal's finding on the cause of accident. The High Court found and held that the accident was caused due to the negligence of the bus driver. Consequently, the High Court allowed the claim for compensation and directed for payment of rupees one lakh fifty thousand (Rs.1,50,000.00) only as compensation to the claimants.

On hearing Mr. D. Mahesh Babu, counsel appearing for the APSRTC, we see no reason to interfere with the view taken by the High Court. The High Court decision is based on a finding of fact that does not warrant any interference in the appeal.

The appeal preferred by APSRTC is, accordingly, dismissed.

The appeal of the claimants, however, appears to be based on firmer grounds. The High Court determined the amount of compensation payable to the claimants at rupees

three lakhs twenty one ² thousand nine hundred sixty (Rs.3,21,960.00) only. Nonetheless, it allowed the lesser amount of rupees one lakh fifty thousand (Rs.1,50,000.00) only to the claimants simply because that was the amount claimed by them in the claim petition filed before the Tribunal. In reducing the amount of compensation the High Court was clearly in error.

This Court in Nagappa vs. Gurudayal Singh and Others, (2003) 2 SCC 274, in paragraph 7 of the judgment observed and held as follows:-

Firstly, under the provisions of Motor Vehicles Act, 1988, (hereinafter referred to as "the MV Act") there is no restriction that compensation could be awarded only up to the

amount claimed by the claimant. In an appropriate case where from the evidence brought on record if Tribunal/court considers that claimant is entitled to get more compensation than claimed, the Tribunal may pass such award. The only embargo is - it should be 'Just' compensation, that is to say, it should be neither arbitrary, fanciful nor unjustifiable from the evidence. This would be clear by reference to the relevant provisions of the M.V. Act. Section 166 provides that an application for compensation arising out of an accident involving the death of, or bodily injury to, persons arising out of the use of motor vehicles, or damages to any property of a third party so arising, or both, could be made (a) by the person who has sustained the injury; or (b) by the owner of the property; or (c) where death has resulted from the accident, by all or any of the legal representatives of the deceased; or (d) by any agent duly authorised by the person injured or all or any of the legal representatives of the deceased, as the case may be. Under the proviso to sub-

3

section (1), all the legal representatives of the deceased who have not joined as the claimants are to be impleaded as respondents to the application for compensation. Other important part of the said Section is sub-section (4) which provides that "the Claims Tribunal shall treat any report of accidents forwarded to it under sub-section (6) of Section 158 as an application for compensation under this Act." Hence, Claims Tribunal in appropriate case can treat the report forwarded to it as an application for compensation even though no such claim is made or no specified amount is claimed."

In light of the decision in Nagappa it is clear

that the High Court having held that the just compensation in the facts of the case would be rupees three lakhs twenty one thousand nine hundred sixty (Rs.3,21,960.00) only, ought not to have allowed the far lesser amount to the claimants as compensation because they had claimed the lesser amount. We are, therefore, constrained to interfere in the matter. The direction of the High Court for payment of the lesser amount as claimed by the claimants is set aside and the respondent-APSRTC is directed to pay the full amount of rupees three lakhs twenty one thousand nine hundred sixty (Rs.3,21,960.00) only, determined as the just

