

VS

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 9214 OF 2013  
(Arising from SLP(C) No.14833/2012)

I. Nagamani and others

..Appellants

versus

A.P. State Road Transport Corporation  
and others

..Respondents

O R D E R

Leave granted.

The only point which requires consideration in this appeal is whether the Division Bench of the Andhra Pradesh High Court was justified in not awarding compensation to the claimants in terms of the determination made by it.

In an accident which occurred on 29.10.2005 involving the bus belonging to the respondents and the vehicle of Indur Institute of Technology, the appellants lost their only breadwinner, namely, Chandrasekhar, who was only 27 years old. At the relevant time, the deceased was holding the post of Assistant Professor in Indur Institute of Technology (respondent No.3) and was drawing monthly salary of Rs.16,000.

The appellants filed a petition under Section 166 of the Motor Vehicles Act, 1988 and claimed compensation of Rs.26,00,000/- with 18% interest. They alleged that the accident was caused due to rash and negligent driving of the bus owned by respondent Nos.1 and 2.

In the counter filed by respondent nos. 1 and 2, it was averred that there was no negligence on the part of the driver of their bus and that the accident was caused due to negligence on the part of the driver of the College bus. In a separate written statement, respondent No.3 pleaded that the accident was caused because RTC bus was driven in a rash and negligent manner. The insurance company (respondent No.4) controverted the averments contained in the claim petition but conceded that the bus belonging to respondent nos. 1 and 2 was being driven in a rash and negligent manner.

Motor Accident Claims Tribunal-cum-III Additional Chief Judge, City Civil Court, Hyderabad (for short, 'the Tribunal') framed the following issues:

"1.Whether Sri Inuguri Chandra Sekhar died on 29.10.05 due to rash and negligent driving of bus No.AP11 Z4499?

2. Whether claimants are entitled to any compensation? If so against whom?

3. To what relief?"

After analyzing the pleadings of the parties and evidence produced by them, the Tribunal held that the accident was caused due to rash and negligent driving of the bus owned by respondent Nos.1 and 2. The Tribunal then considered the evidence produced by the parties on the issue of compensation and ruled that the appellants are entitled to the amount claimed by them with interest at the rate of 7.5%.

Respondent Nos. 1 and 2 challenged the award of the Tribunal in M.A.C.M.A. No.5522 of 2008. The Division Bench of the High Court referred to the judgment of this Court in Sarla Verma and others v. Delhi Transport corporation and another (2009) 6 SCC 121 and observed:

"The appellants' counsel has not disputed about the Ex.A.12 salary certificate and as per Ex.A.12 the gross salary of the deceased is Rs. 16,000/- and after deducting an amount of Rs.350/-, his net salary is Rs.15,650/-. The Tribunal, by taking into consideration of the future prospects of the deceased, has doubled the said income. As per the decision rendered in "Smt. Sarla Verma and others v. Delhi Transport Corporation and another (2009 AIR SCW 4992)", only 50% can be taken into consideration towards future prospects of the deceased since the deceased is aged about 27 years as on the date of his death. Thus, the total income of the deceased can be taken as Rs.15,650 + Rs.7,825 = Rs.23,475/- per month. Since there are 4 claimants, as per Smt.Sarla Verma's case (referred supra) 1/4th has to be deducted towards personal expenses of the deceased. After deducting 1/4th towards his personal expenses, the income comes to (Rs.23,475 - Rs.5,868) Rs.17,607/-. Since the age of the deceased is 27 years, the proper multiplier i.e. applicable as per Smt.Sarla Verma's case (referred supra) is '17'. Thus, the total loss of dependency of the claimants comes to Rs.17,607 X 12 X 17= Rs.35,91,828/-, which is far more than the amount arrived at by the Tribunal."

However, the High Court refused to grant full compensation to the appellants on the ground that they had lodged claim for Rs.26,00,000 only.

We have heard learned counsel for the parties and perused the record.

The question whether the Tribunal and/or the High Court can award compensation more than the amount specified in the claim petition is no longer res integra and must be answered in affirmative. In Nagappa v. Gurudayal Singh and others (2003) 2 SCC 274, a two Judge Bench of this Court approved the ratio of the judgments of the Bombay High Court in Municipal Corporation of Greater Bombay v. Kisan Gangaram Hire 1987 ACJ 311, Orissa High Court in Mulla Md. Abdul Wahid v. Abdul Rahim 1994 ACJ 348 and Punjab and Haryana High Court in Devki Nandan Bangur v. State of Haryana 1995 ACJ 1288 and observed:

"For the reasons discussed above, in our view, under the MV Act, there is no restriction that the Tribunal/court cannot award compensation amount exceeding the claimed amount. The function of the Tribunal/court is to award "just" compensation which is reasonable on the basis of evidence produced on record. Further, in such cases there is no question of claim becoming time-barred or it cannot be contended that by enhancing the claim there would be change of cause of action. It is also to be stated that as provided under sub-section (4) to Section 166, even the report submitted to the Claims Tribunal under sub-section (6) of Section 158 can be treated as an application for compensation under the MV Act. If required, in appropriate cases, the court may permit amendment to the claim petition."

The same view was reiterated in Ibrahim v. Raju (2011) 10 SCC 634 and Laxman v. Divisional Manager, Oriental Insurance Company Limited 2012 ACJ 191.

In Tamil Nadu State Transport Corporation Limited v. Sambandam 2009 ACJ 203, the Madras High Court held that even in the absence of appeal or cross objection, the appellate Court can, in exercise of power under Order 41 Rule 33 CPC, award just compensation to the claimant for doing substantial justice. In our opinion, this proposition is unexceptionable.

In the light of the principles laid down in the aforesaid judgments, we hold that the Division Bench of the Andhra Pradesh High Court committed an error by refusing to award just compensation to the appellants.

The appeal is accordingly allowed, the impugned judgment is set aside and it is held that the appellants are entitled to total compensation of Rs.35,91,828 with interest at the rate of 7.5% per annum from the date of filing of the claim petition till the date of actual payment. The amount shall be paid to the appellants in the proportion indicated by the Tribunal.

Respondent Nos. 1 and 2 are directed to pay the balance amount of compensation and interest to the appellants within a period of four months from the date of receipt/production of a copy of this order. Respondent Nos.1 and 2 shall get demand drafts prepared from a nationalised bank in the names of the appellants and ensure that the same are delivered to them within the time specified by this Court.

.....J.  
[G.S. SINGHVI]

NEW DELHI;  
OCTOBER 17, 2013.

.....J.  
[C. NAGAPPAN]

ITEM NO.40

COURT NO.2

SECTION XIIA

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).14833/2012

(From the judgement and order dated 17/11/2011 in MACMA No.5522/2008 of The HIGH COURT OF A.P AT HYDERABAD)

I.NAGAMANI & ORS.

Petitioner(s)

VERSUS

A.P.STATE ROAD TRANSP.CORP.& ORS.

Respondent(s)

(With office report )

Date: 17/10/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

For Petitioner(s)                    Mr. Sadineni Ravi Kumar, Adv.

For Respondent(s)                   Mr. Debojit Borkakati, Adv.  
Nos. 1 and 2

For RR No.4                         Mr. Saurabh Prakash, Adv.

UPON hearing counsel the Court made the following  
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

| (Parveen Kr.Chawla)  
| Court Master  
|

| | (Phoolan Wati Arora)  
| | Court Master  
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[signed order is placed on the file]