

HON'BLE SRI JUSTICE S. RAVI KUMAR

M.A.C.M.A. No.230 of 2015

JUDGMENT:

This appeal is preferred against Award dated 18.07.2014 in M.V.O.P.No.132 of 2012.

2. Appellant herein filed claim petition claiming a sum of Rs.35,00,000/- as compensation under Section 166 of M.V. Act. The Chairman, MACT-cum-XXVII Additional Chief Judge, City Civil Court, Secunderabad, after due enquiry and on consideration of oral and documentary evidence, granted compensation of Rs.41,60,480/- with interest @ 7.5% p.a., though the claim was only for Rs.35,00,000/-.

3. Now the claimants filed this appeal contending that though they are entitled for Rs.65,00,000/-, the tribunal granted only Rs.41,60,480/- and that they are entitled for difference of Rs.23,39,520/-.

Section 173 of Motor Vehicles Act deals with appeals, and according to which, any person aggrieved by an Award of the claims tribunal may prefer appeal within 90 days. 'Aggrieved person' is not defined in the Act. But general understanding of 'aggrieved person' is the persons whose claim is not considered by Court, tribunal or any legal Forum.

4. Now the argument of advocate for appellants is that lower tribunal has not considered the future earnings of the deceased in calculating compensation. When this Court enquired appellants' counsel as to the amount that was claimed in the claim petition towards future earnings, it is submitted that nothing is claimed in the claim petition towards future income. When the claimants have not claimed any amount towards "future earnings", now complaining that the lower Court has not granted future earnings, in my view is not permissible.

5. As seen form the Award, the lower authority granted Rs.1,00,000/- towards consortium another Rs.1,00,000/- towards loss of love and affection to

the two minor children, Rs.25,000/- towards funeral expenses, Rs.5,000/- towards transport charges besides calculating compensation on the basis of salary of the deceased by applying multiplier process. On such calculation, the loss of earnings were determined at Rs.39,30,480/-. Though the claim was only for Rs.35,00,000/-, the lower tribunal by considering principle of just compensation, awarded Rs.41,60,480/-.

6. Further, as seen from the Award, lower tribunal collected difference Court fee on the enhanced compensation. So, when the claimants have not made any claim before lower tribunal they cannot be permitted to contend that the tribunal has not considered that aspect namely future earnings. Therefore appellants cannot be treated as aggrieved persons, and as such, appeal is not maintainable. Appeal is not provided to cover lapses that are committed by the claimants or by their advocate in the lower court.

7. For these reasons, this M.A.C.M.A is dismissed at admission stage. No costs. Miscellaneous Petitions, if any pending, in this Appeal, shall stand closed.

S. RAVI KUMAR, J

Date: 24-03-2015.

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