HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

MACMA No. 3168 of 2005

Judgment:

Dissatisfied with the amount of Rs.80,000/- as compensation awarded by the order, dated 18.07.2005, in MVOP No. 669 of 2002 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge, Guntur, as against the claim of Rs.2,00,000/-, laid under Sections 166 and 163-A of the Motor Vehicles Act, 1988 (for short 'the Act'), the instant appeal is preferred by the claimants.

2. For the sake of convenience, the parties are hereinafter referred to as arrayed in the Original Petition before the Tribunal.

3. Facts, in brief, are that, on 11.06.2002 at about 2.00 PM while one Ravi Mohan Reddy, husband of the first petitioner, father of petitioners 2 to 4 and son of petitioner No.5, was proceeding on his scooter bearing registration No.AP-7E-6213 from Guntur to Kantheru with a load of redgram bag and reached near Pallalamma Cheruvu on National Highway-5, a trolley bearing registration No.HR-38D-0185 which was coming from behind driven by its driver in a rash and negligent manner at high speed hit his scooter from behind due to which he fell down and died instantly. The petitioners claiming that, he was aged 50 years, owning Ac.20-00 of land, earning Rs.1,20,000/- per annum, sought Rs.2,00,000/- from the respondents 1 and 2 who are the owner and insurer of the trolley.

4. Before the Tribunal, the first respondent remained *ex parte*. The second respondent - Insurance Company opposed the claim. A plea was raised that the driver of the trolley did not possess valid, subsisting driving license by the time of accident. On that ground, the Insurance Company sought to exonerate from its liability to indemnify

the first respondent. Also claiming that the amount of compensation sought for by the petitioners is highly excessive and arbitrary, requested to dismiss the petition.

5. The Tribunal framed three (3) issues about the responsibility for the accident. During enquiry, the first petitioner besides examining herself as PW.1 also examined one Mandala Pavan Kumar Reddy as PW.2 an eye witness to the occurrence and marked Exs.A1 to A5, whereas on behalf of the second respondent – Insurance Company an official from its local branch office was examined as RW.1 and marked Exs.B1 and B2.

6. The Tribunal, on appraisal of evidence let in by the petitioners, more particularly, the evidence of PW.2 supported by Exs.A1 and A2, which are the certified copies of FIR and charge sheet respectively, held issue No.1 in favour of the petitioners.

7. On issue No.2, the Tribunal, rejecting the plea of the second respondent by excluding Ex.B2 which is verification of DL certificate dated 02.07.2003, on the ground that none of the officials from the concerned authority has summoned and examined to prove the contents of Ex.B2 and placing reliance on a decision of this Court reported in **United India Insurance Company v. Madiga Thappeta Ramakka**[1], taken the age of the deceased as 50 years based on Exs.A4 and A5 and applied the multiplier '7' then holding the field, by fixing the annual income at Rs.15,000/- as per II schedule to Section 163-A of the Act and deducting 1/3rd there from towards personal expenses of the deceased, taken Rs.10,000/- per annum as contribution to the family and applying the multiplier '7' arrived at Rs.70,000/- towards loss of dependency. The Tribunal also granted Rs.5,000/- towards funeral expenses and Rs.5,000/- towards consortium. The Tribunal has made a specific observation that the

claim was being dealt with under Section 163-A of the Act, thus, the order under challenge would reflect that the Tribunal has proceeded with the claim of the petitioners under Section 163-A of the Act.

8. Heard Sri Challa Ajay Kumar, learned counsel for the appellants. The appeal stood dismissed for default against the first respondent – owner of the vehicle, by an order dated 06.01.2012. The second respondent – Insurance Company, though, was served with notice, none appears on its behalf.

9. It is stated that the dismissal of the instant appeal against the first respondent is of no consequence in view of the decision of the Division Bench of this Court reported in **Meka Chakra Rao v. Yelubandi Babu Rao @ Reddemma[2].** Thus, the scope in the instant appeal is to a very limited extent as to enhancement of compensation. The findings recorded by the Tribunal since stood unchallenged by not preferring any appeal nor any arguments are advanced by the second respondent – Insurance Company they are confirmed. However, concerning the quantum of compensation arrived at by the Tribunal, instead of multiplier ‘7’, multiplier ‘13’ would be applicable as per the decision of the Apex Court in **Sarla Verma v. Delhi Transport Corporation**[3]. This apart, the dependents are numbering 5. Therefore, as per the guidelines laid down in the very same decision, the deduction at $1/4^{th}$ towards personal expenses of the deceased is permissible, which works out to Rs.3,750/-. When the same is deducted, $3/4^{th}$ works out to Rs.11,250/-. When multiplier ‘13’ is applied, it works out to Rs.1,46,250/-. The Tribunal awarded Rs.5,000/- towards funeral expenses and Rs.5,000/- towards consortium and the same are maintained. Thus, the petitioners are totally entitled to Rs.1,56,250/- with interest at 7.5% p.a., as per the decision of the Hon’ble Apex Court reported in **Rajesh and others v.**

Rajbir Singh and others[4]. Concerning the apportionment of compensation amount, the same shall be in proportion to the shares made by the Tribunal amongst the petitioners.

10. Accordingly, the appeal is allowed in part modifying the impugned award passed by the Tribunal, by enhancing the compensation as stated supra. There shall be no order as to costs.

11. As a sequel thereto, Miscellaneous Applications, if any, pending in this appeal stand disposed of.

A. SHANKAR NARAYANA, J

Date: 27.02.2015
Nsr

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[1] 1995 ACJ 358

[2] 2001(1) ALD 453 (DB)

[3] (2009) 6 SCC 121

[4] 2013 ACJ 1403 = 2013(4) ALT 35