

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

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M.A.C.M.A.No.884 of 2009

JUDGMENT:

This appeal is filed by the appellants/petitioners challenging the judgment and award, dated 09.01.2009 passed in M.V.O.P.Nos.98 of 1997 and 64 of 1998 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-IV Additional District Judge, East Godavari, Kakinada (for short, 'the Tribunal').

2. For the sake of convenience, the parties are hereinafter referred to as they are arrayed in the O.Ps. before the Tribunal.

3. M.V.O.P.No.98 of 1997 was filed by the wife and children of Penkey Siva (hereinafter referred to as 'the deceased') claiming compensation of Rs.5,00,000/- and M.V.O.P.No.64 of 1998 was filed by mother, unmarried sister and brother of the deceased claiming compensation of Rs.1,00,000/- for the death of the deceased. The Tribunal clubbed both the matters and passed common order, dated 07.09.2000. The Tribunal apportioned the compensation among the dependants of the deceased in the following manner:

Wife ----- Rs.1,46,516/-

Mother and
unmarried sister ----- Rs. 75,000/-
each

Unmarried brother ----- Rs. 50,000/-

No amount was awarded in favour of minor children of the deceased. Feeling aggrieved by the common order of the Tribunal, the wife and children of the deceased filed C.M.A.No.409 of 2001. This Court by judgment dated 26.03.2008 allowed the C.M.A. and remanded the matter to the Tribunal. The Tribunal passed the judgment and award by apportioning the compensation in the

following manner:

Wife	-----	Rs.1,46,156/-
Son and daughter of	-----	Rs. 75,000/-
the deceased		each
Mother	-----	Rs. 50,000/-

4. Feeling aggrieved by non-granting of any amount to the unmarried brother and sister of the deceased, and direction of the Tribunal to remit the amount withdrawn in excess of Rs.50,000/- by the mother, the claimants in M.V.O.P.No.64 of 1998 preferred this appeal.

5. Heard Sri N.Siva Reddy, the learned counsel for the appellants/petitioners and Sri Srinivasa Rao Vutla, the learned counsel for respondent No.3.

6. Learned counsel for the appellants/petitioners submitted that the Tribunal failed to consider that the unmarried sister and brother are dependants on the deceased. He further submitted that the Tribunal committed error by not awarding any amount to the brother and sister of the deceased. He also submitted that the judgment and award passed by the Tribunal is contrary to the judgment passed by this Court.

7. Per contra, the learned counsel for respondent No.3 submitted that the Tribunal rightly considered the various aspects and passed the judgment and award in accordance with law.

8. Now the point that arises for consideration in this appeal is:

1. Whether the Tribunal has committed any error in not awarding compensation to the brother and sister of the deceased or not?

9. **Point:**

For better appreciation of the rival contentions, it is not out of

place to extract the relevant portion in para No.16 of judgment in C.M.A.No.409 of 2001, which is as follows:

“In the interest of justice, this Court is not inclined to adopt a too technical approach, especially, in a case of this nature where the minor children of the deceased had been totally excluded and no apportionment as such had been made in their favour. In view of the same without disturbing the other findings, this Court is inclined to set aside the common order made in both the O.Ps. so far as the common order relates to the apportionment of the quantum of the respective amounts and let the Tribunal take into consideration of the facts and circumstances and also let the Tribunal keep in mind the interest of the minor children also apart from the wife and accordingly make proper apportionment of the compensation which had been already awarded by the Tribunal in accordance with law.”

A perusal of the above para clearly indicates that this Court set aside the order passed by the Tribunal so far as the apportionment of compensation is concerned.

10. The crucial question that falls for consideration is whether the unmarried brother and sister are dependants on the income of the deceased or not? By the time of filing of the original petition, the married sister and brother of the deceased were majors. The unmarried brother and sister are not Class-I heirs and they are Class – II heirs as per the Hindu Succession Act, 1956. The very purpose of the enactment of the Motor Vehicles Act, 1988 is to provide financial assistance to the road accident victims. When compared to unmarried brother and sister, the wife and children of the deceased are more dependants on the income of the deceased. By the time of unfortunate death of the deceased, the children of the deceased were minors. In such circumstances, the wife and minor children are more dependants on the income of the deceased. There is no statutory or moral obligation on the part of the brother to provide maintenance to the unmarried brother and sister. The Tribunal has considered the ground

realities as well as the material available on record and apportioned the compensation among the mother, children and wife of the deceased. Viewed from any angle, there are no grounds much less valid grounds to interfere with the well considered judgment and award of the Tribunal.

11. Having regard to the facts and circumstances of the case, I am unable to accede to the contention of the learned counsel for the appellants that the unmarried brother and sister particularly in this case are dependants on the income of the deceased.

12. In the result, the Appeal is dismissed. There shall be no order as to costs.

13. Consequently, Miscellaneous Petitions, if any, pending in this Appeal shall stand closed.

T.SUNIL CHOWDARY, J

Date: 03.03.2015
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