HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

MACMA No. 2780 of 2005

Judgment:

The instant appeal is preferred by the second respondent – New India Assurance Company Limited, challenging the order, dated 25.07.2005, in MVOP No.302 of 2003 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-Judge, Family Court, Secunderabad, whereby and whereunder the Tribunal granted a sum of Rs.7,52,840/- as compensation with interest at 9% p.a., from the date of petition till realization, on the ground that the wrong multiplier was applied and compensation granted was excessive.

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

3. The case of the petitioners, in brief, is that, on 22.05.2003 at about 4.00 PM, the deceased was travelling on a lorry tanker bearing registration No.AP-31T-3869 as an escort from Sarvaraya Sugar Limited, Chellur village, to Pearl Distillery Limited, Old Singarayakonda, Prakasam District and, when it reached near Pottipadu Centre, Unguturu Mandal, Krishna District, since the driver of the lorry drove it in a rash and negligent manner, it dashed the stationed lorry from behind, due to which, he fell down from the Cabin and got crushed under the rear wheels of the same lorry tanker and died instantly. He was 32 years old and working as Constable in AP Prohibition and Excise Department drawing a salary of Rs.5,150/- per month. The petitioners, being wife, minor children and parents of the deceased, sought a total sum of Rs.10,00,000/- as compensation by laying the claim under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

4. The first respondent filed counter opposing the claim and

disowning the rash and negligent driving attributed to the driver of the vehicle. The second respondent also opposed the claim by raising various pleas.

5. The Tribunal, based on the said pleadings, framed three issues in order to fix the responsibility for the accident.

6. During enquiry, the petitioners examined PWs.1 to 4 and marked Exs.A1 to A11 to substantiate their claim. On behalf of the respondents, no witnesses were examined, but copy of insurance policy was marked as Ex.B1.

7. The Tribunal, on appraisal of evidence let in by the petitioners, held issue No.1 in favour of the petitioners. On issue No.2, the Tribunal, taking the age of the deceased as 32 years, his income at Rs.5,315/- per month basing on the contents of Ex.A11 - salary certificate, deducted 1/3rd there from towards personal expenses and applied multiplier '17' and arrived at Rs.7,22,840/- towards loss of dependency, besides granting Rs.15,000/- towards loss of consortium and Rs.15,000/- towards loss of estate, making a total sum of Rs.7,52,840/- and granted the same by apportioning the amounts towards the share of each of the petitioners.

8. It is the aforesaid order which is under challenge in the instant appeal on the ground that higher multiplier was applied and the net salary ought to have taken but not gross salary for determination of compensation and the rate of interest at 9% p.a., granted by the Tribunal is against the judgment of the Hon'ble Apex Court and ought to have granted the rate of interest at 7.5% p.a.

9. Heard Sri Naresh Byrapaneni, learned counsel for the appellants, Sri Prabhakar Peri, learned counsel for the respondents 1 to 5 and Sri M.L. Ali, learned counsel for respondent No.6.

10. Learned counsel for the appellant fairly submits that, in view of change in the decisional law, the insurance company is not challenging the compensation granted by the Tribunal, but, however, in view of the decision of the Hon'ble Apex Court in **Rajesh and others v. Rajbir Singh and others**[1], requested to reduce the rate of interest from 9% p.a., to 7.5% p.a. Learned counsel for the respondents also concedes the same, wherein the rate of interest at 7.5% p.a., was held to be permissible. Hence, the rate of interest at 9% p.a., granted by the Tribunal is reduced to 7.5% p.a., while confirming the order and decree under challenge in all other respects.

11. Accordingly, the instant MACMA is allowed in part as indicated above as regards interest. There shall be no order as to costs.

12. As a sequel thereto, Miscellaneous Applications, if any, pending in this appeal shall stand closed.

A. SHANKAR NARAYANA, J

Date: 28.12.2015
Nsr

[1] 2013 ACJ 1403 = 2013(4) ALT 35