HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

MACMA No. 861 of 2005

Judgment:

Dissatisfied with the amount of Rs.2,33,500/- awarded by the Chairman, Motor Accidents Claims Tribunal-cum-District Judge, Nellore, (for short 'the Tribunal') as compensation for the death of the husband of the first petitioner and father of the second petitioner, as against the claim of Rs.4,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'), the petitioners preferred the instant appeal challenging the order, dated 09.02.2005, in OP No. 747 of 2003 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-District Judge, Nellore.

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

3. The facts, in brief, are that, on 13.05.2003, one Boggala Kondareddy (deceased herein) along with another were transporting fuel to the Lanco Company in a lorry bearing RC No.AP-26T-5459, owned by the third respondent and insured with the fourth respondent and, when it reached Vengamambapuram, Balayapalli Mandal, it was stopped due to lack of diesel and the driver went to Venkatagiri to bring diesel by parking the vehicle without putting on the danger signals and, at about 12 0' clock mid-night, while the deceased was sitting in front of the lorry, a mini lorry bearing RC No.AP03V-343, owned by the first respondent and insured with the second respondent, being driven in a rash and negligent manner came and dashed the lorry from its behind, due to which it was ran over the deceased and he died instantaneously. The petitioners projecting that he was doing business in fuel and used to supply fuel to Lanco Company and used

to earn Rs.6,000/- per month sought the aforesaid amount.

4. Before the Tribunal, the first and third respondents, who are the owners of the vehicles respectively, remained *ex parte*. The second and fourth respondents - Insurance Companies opposed the claim.

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 Kuchi Rosaiah as PW.2 and marked Exs.A1 to A3. On behalf of the respondents, RWs.1 and 2 were examined and Exs.B1 to B4 were marked.

6. The Tribunal, on issue No.1, having discussed elaborately both on law and on facts of the case, arrived at the finding that there has been composite negligence of both the drivers and apportioned it at 50% each and accordingly rendered the finding thereon.

7. On issue No.2, the Tribunal, taking the age of the deceased as 40 years and he is earning Rs.2,000/- per month, deducted 1/3rd there from and arrived at Rs.16,000/- per annum as contribution to the family and, applying the multiplier '14', arrived to Rs.2,24,000/- as compensation, besides granting Rs.5,000/- towards loss of consortium, Rs.2,500/- towards loss of estate and Rs.2,000/- towards funeral expenses and, thus, a total sum of Rs.2,33,500/- with interest at 9% p.a., was granted making the respondents 1, 3 and 4 jointly and severally liable to pay and exonerating the second respondent by dismissing the claim by assigning reasons therein. On the ground that very meagre amount is awarded, the instant appeal is preferred requesting to grant balance amount.

8. Heard Sri M. Venkata Narayana, learned counsel for the appellants and Sri Kota Subba Rao, learned counsel for the fourth respondent – Insurance Company. It was recorded that respondents 1 and 3 are not necessary parties. None appears for the second

respondent – Insurance Company.

9. Learned counsel for the appellants submits that only in regard to enhancement of compensation the instant appeal is preferred, therefore, the scope is very limited as to whether the amount granted by the Tribunal is just and reasonable or otherwise?

10. As seen from the order and evidence on record, the deceased was aged about 40 years, therefore, the appropriate multiplier is '15' as per the decision of the Hon'ble Apex Court in **Sarla Verma v. Delhi Transport Corporation**[1]**.** So far as income of the deceased is concerned, the petitioners have not submitted any proof of income. Therefore, the income at Rs.2,000/- per month, as fixed by the Tribunal, is confirmed. Deducting 1/3rd from the annual income i.e., Rs.8000/- out of Rs.24,000/-, remainder Rs.16,000/- may stands towards contribution to the family. When '15' multiplier is applied, it works out to Rs.2,40,000/-. Towards conventional sums, the Tribunal awarded Rs.5,000/- towards loss of consortium, Rs.2,500/- towards loss of estate and Rs.2,000/- towards funeral expenses respectively, but in view of the judgment of the Hon'ble Apex Court in **Ramilaben Chinubhai Parmar v. National Insurance Company Limited**[2], a conventional sum of Rs.50,000/- is awarded. Thus, the total compensation is enhanced from Rs.2,33,500/- to Rs.2,90,000/- with interest at 7.5% p.a., as per the decision of the Hon'ble Apex Court in **Rajesh and others v. Rajbir Singh and others**[3]. Concerning the apportionment of compensation amount, the same shall be in proportion to the shares made by the Tribunal amongst the petitioners.

11. Accordingly, the appeal is allowed in part modifying the impugned award passed by the Tribunal, by enhancing the compensation and reducing the rate of interest as stated supra. 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: 12.03.2015
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[1] (2009) 6 SCC 121

[2] 2014 ACJ 1430

[3] 2013 ACJ 1403 = 2013(4) ALT 35