

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A.No.1003 of 2006

JUDGMENT:

The 2nd respondent-Insurance Company is the appellant. Aggrieved by the order dated 26.09.2005 in O.P.No.140 of 2003 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-District Judge, Anantapur (for short, 'the Tribunal') whereby and whereunder a total sum of Rs.8,64,000/- was granted as compensation to the petitioners for the death of one D. Janardhan Reddy in a motor accident that took place on 18.11.2002 at about 11.30 AM, preferred the instant appeal under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act').

2. The appellant herein is the 2nd respondent, while the petitioner Nos.1 to 4 and the 1st respondent, who is the owner of the Taxi Jeep bearing No.AP-02-U-3961 respectively, were respondents in the original petition.

3. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the original petition.

4. The facts in brief are that on 18.11.2002 at about 11.30 AM, the said Janardhan Reddy was traveling in a jeep-taxi bearing No.AP-02-U-3961 from Anantapur to Gooty along with other passengers. When they reached Kallur and nearer to State Bank of India, since the driver of the jeep drove it in a rash and negligent manner and at high speed and could not control the speed, it turned upside down and again stood in its normal position on the left side of the road. The inmates of the jeep including the said Janardhan Reddy received injuries. He received injuries on back of the head and he was shifted to Government Hospital, Pamidi, where he succumbed to injuries on the same day. The petitioners being legal heirs of the deceased, claim

that Janardhan Reddy/deceased was aged about 38 years and was an employee of Zilla Parishad High School, Nagarur of Yadiki Mandal, Anantapur District and was drawing a monthly salary of Rs.6,500/-. They also stated that the deceased owned 5 acres of land at his native village, Atmakur and used to get an income of Rs.25,000/- to Rs.30,000/- per annum on cultivation and hence, they sought Rs.8,64,000/- having laid the claim under Sections 140 and 166 of the Act against respondent Nos.1 and 2 who are the owner and insurer of the jeep respectively.

5. The 1st respondent-owner of the jeep remained *ex parte* before the Tribunal and the 2nd respondent-insurance company, the present appellant opposed the claim.

6. Basing on the above pleadings, the Tribunal framed three issues about the responsibility for the accident. During enquiry, the 1st petitioner herself was examined as P.W.1 besides examining B.Sekhar-eye witness as PW.2 and N.Anjaneyulu as PW.3 and marked Exs.A.1 to A.10. On behalf of the 2nd respondent-Insurance Company, no witnesses were examined, but a copy of the insurance policy was marked as Ex.B.1.

7. On an overall assessment of the evidence let in by the petitioners, the Tribunal held issue No.1 in favour of the petitioners observing that due to rash and negligent driving of the driver of the jeep, the accident had occurred resulting the death of the deceased. On issue No.2, basing on the salary certificate-Ex.A.10 having found from the evidence of PW.3, Head Master of Z.P. High School, in which school the deceased was working as physical education teacher, that the deceased's gross salary was Rs.8,158/- and net salary was Rs.6,919/-, the Tribunal took the net salary at Rs.6,900/- per month, by deducting 1/3rd therefrom towards personal expenses of the deceased, the reminder i.e., Rs.4,600/- taken towards contribution to the family and

worked out the annual income at Rs.55,200/- and applied multiplier '16' taking the age of the deceased as 38 years on the date of accident and, thus, arrived at Rs.8,83,200/- as compensation. Besides the same, the Tribunal has also granted Rs.10,000/- towards consortium and Rs.10,000/- towards love and affection. Thus, the total compensation of Rs.9,03,000/- was awarded by the Tribunal with interest @ 7.5% per annum by giving further directions as to apportionment and withdrawal.

8. It is the aforementioned order under challenge in the instant appeal by the 2nd respondent-insurance company contending in the grounds of appeal that the Tribunal went wrong in applying '16' multiplier as per the II schedule to Section 163-A of the Act when the claim was made under Section 166 of the Act and the Tribunal ought to have applied multiplier '13.6' as held by this Court in **Bhagwan Das Vs. Mohd. Arif [ALT 1987 (2) 137]**. That has been made as ground in the appeal touching the quantum of compensation awarded by the Tribunal.

9. Heard Smt. A.Anasuya, learned counsel for the appellant and Sri Rama Mohan Reddy, learned counsel for respondent Nos.1 to 4. None appears for respondent No.5.

10. The submission of the learned counsel for the appellant is that the Tribunal was not right in applying multiplier '16', in view of the decision of the Hon'ble Apex Court in **Sarla Verma & others v. Delhi Transport Corporation and another**^[1], since for the age group between 36 and 40 years, the relevant multiplier is '15' and therefore, sought to modify the order accordingly.

11. The learned counsel for respondent Nos.1 to 4 contends that in fact as per **Sarla Verma's case (1 Supra)**, deduction should be 1/4th as the dependants are numbering four as against 1/3rd deducted by the Tribunal towards the personal expenses of the deceased.

12. Perused the order and the evidence on record through P.W.s.1 to 3, Exs.A.1 to A.10 and Ex.B.1. The Tribunal ought to have looked future prospects also which the Tribunal some how did not take into consideration. It is no doubt true that the relevant multiplier would be '15' but not '16' but the deduction ought to be $\frac{1}{4}$ th but not $\frac{1}{3}$ rd. Certainly, the amount of Rs.8,64,000/- granted by the Tribunal warrants no interference since the petitioners become entitled to compensation slightly exceeding Rs.8,64,000/- if the principles laid down in **Sarla Verma's case (1 Supra)** are followed. Hence, there is no merit in the appeal and the appeal is liable to be dismissed.

13. In the result, the appeal is dismissed. There shall be no order as to costs.

14. As a sequel thereto, miscellaneous applications, if any, pending in the appeal, stand disposed of.

A. SHANKAR NARAYANA, J

Date: 04.02.2015.
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[\[1\]](#) (2009) 6 Supreme Court Cases 121