

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

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M.A.C.M.A. No.717 of 2006

JUDGMENT:

Dissatisfied with the amount of Rs.2,56,000/- granted as compensation by the order dated 02.11.2005 in M.V.O.P.No.724 of 2002 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, Guntur (for short, 'the Tribunal') as against the claim of Rs.5,00,000/- laid under Section 163-A of the Motor Vehicles Act, 1988 (for short, 'the Act'), for the death of one Vadapalli Madhu Anand in a road accident, the instant appeal is preferred by the petitioners, who are his parents and younger brother, seeking enhancement of compensation.

2. The appellants herein are the petitioners, while the respondent Nos.1 and 2, who are the owner and insurer of the accident vehicle respectively, were respondents in the original petition.

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

4. The facts in brief are that on 26.02.2002 at about 5-30 p.m., while the said Madhu Anand (deceased) was proceeding on Hero Honda Splendor motorcycle bearing registration No.KA 01P 1079 along with one Balijepalli on the left side of Karempudi to Narasaraopet road towards Narasaraopet side and when it reached N.S.P.Canal at the outskirts of Guttikonda village, the driver of the jeep which was owned by the 1st respondent driven in a rash and negligent manner at high speed coming in opposite direction, dashed the motorcycle, due to which, he fell down along with the motorcycle and sustained fatal injuries and succumbed to the injuries. The Station House Officer, Piduguralla Police Station registered a case in Crime No.155 of 2002.

5. Respondent No.1-owner of the accident vehicle remained *ex parte*. Respondent No.2-insurer opposed the claim raising various pleas requiring the petitioners to prove the allegations and while seeking protection under Section 170(1) of the Act, sought to dismiss the claim petition.

6. Basing on the said pleadings, the Tribunal framed three issues about the responsibility for the accident. During enquiry, the 1st petitioner examined herself as P.W.1 besides examining one Ummareddy Kotireddy, an eyewitness to the occurrence, as P.W.2 and marked Exs.A.1 to A.8 to substantiate their claim; whereas, on behalf of respondent No.2, no witnesses were examined and no documents were marked.

7. The Tribunal, on appraisal of evidence, both, oral and documentary, let in by the petitioner, held issue No.1 in favour of the petitioners finding that due to rash and negligent driving of the driver of the jeep belonging to the 1st respondent, the accident had occurred; and on issue No.2, considering the evidence of P.W.1 and Exs.A.6 to A.8, which would show that the deceased was prosecuting Engineering course in Bapatla Engineering College, in the absence of material to show any particular income, the deceased would have earned, by desk work, fixed the income at Rs.2,000/- mentioning it as a minimum income and deducted 1/3rd therefrom towards personal expenses and taking the reminder Rs.16,000/- and by applying multiplier '16' taking the age of the younger parent of the deceased, arrived the loss of dependency at Rs.2,56,000/- (Rs.16,000/- x '16'), and, thus, granted the said amount with interest at 6% per annum by apportioning the same among the three petitioners with further direction as to withdrawal of the amounts by them in proportionate to their shares.

8. It is the aforesaid order which is under challenge in the instant appeal by the petitioners seeking enhancement of compensation contending in the grounds that the Tribunal awarded a meager sum as compensation, and, therefore, sought to grant balance amount.

9. Heard Sri P.Hari Babu, assisting Sri N.Subba Rao, learned counsel for the appellants-claimants. No representation on behalf of the 2nd respondent-Insurance Company. Despite service of notice on the 1st respondent-owner of the vehicle, none appears for him. However, he remained *ex parte* before the Tribunal and suffered the decree.

10. The only point that arises for consideration is, whether the amount awarded by the Tribunal is not just and adequate, and, as such, the petitioners are entitled to enhancement of compensation?

11. Perused the order under challenge and the evidence on record, let in by the petitioners, both, oral and documentary in the direction of substantiating their claim. As mentioned hereinbefore, the Tribunal by guesswork, observing that a minimum of Rs.2,000/- per month, the deceased would have earned had he even secured a private job, and, thereby, fixed the income notionally at Rs.2,000/- per month and determined the compensation.

12. There is no dispute that the deceased was prosecuting Engineering course and completed first year in Information Technology in Bapatla Engineering College. It is the stand of the petitioners that they have spent more than Rs.1,00,000/- towards his education. Therefore, keeping in view, the said circumstance and the income fixed by the Tribunal, it would be appropriate to fix the income at Rs.3,000/- per month notionally and deduct half of it towards his personal expenses as he died in an unmarried status, as per the decision of the Hon'ble Apex Court in **Sarla Verma & others v. Delhi Transport Corporation and another** and the remainder works out to Rs.1,500/- per month and arrived the contribution to the family at Rs.18,000/- per annum. The relevant multiplier is '18' as per the very same decision and as the deceased was an earning member, basing on the legal principle laid down by the Hon'ble Apex Court in **Amrit Bhanu Shali and others v. National Insurance Co. Ltd. and others**, when computed the loss of dependency, it works out to Rs.3,24,000/- (Rs.18,000/- x '18'). This apart, the petitioners are also entitled to a sum of Rs.5,000/- towards funeral expenses, Rs.20,000/- towards loss of love and affection to the petitioner Nos.1 and 2, who are the parents of the deceased, @ Rs.10,000/- each and Rs.3,000/- towards transport charges.

13. Thus, the petitioner is entitled to a total sum of Rs.3,52,000/- (Rupees three lakhs and fifty two thousand) as against Rs.2,56,000/- granted by the Tribunal, towards compensation and the same is accordingly granted. The Tribunal granted interest at 6% per annum and the same is enhanced to 7.5% per annum on the entire amount from the date of petition till realisation, as per the decision of the Hon'ble Apex Court in **Rajesh and others v. Rajbir Singh and others**.

14. Accordingly, the instant appeal is allowed in part modifying the order passed by the Tribunal, by enhancing the compensation as well as the rate of interest, as indicated above, and confirming the same in all other respects. There shall be no order as to costs.

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

A. SHANKAR NARAYANA, J

02nd April, 2015

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