

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.CIVIL MISCELLANEOUS APPEAL NO. 444 OF 2005

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JUDGMENT:

Heard the learned counsel for the appellant and the learned counsel for the third respondent. Though notice served on first respondent, none appears and there is no representation on his behalf. Though notice served on second respondent, there is no representation on his behalf, but it makes no difference in view of the fact that he remained ex-parte and did not chose to contest the petition before the Tribunal.

2. The instant appeal is preferred by the appellants dissatisfied with the amount of Rs. 1,88,000/- granted as compensation by the judgment and decree dated 9.9.2004 in MVOP No. 1271 of 2000 on the file of Motor Accident Claims Tribunal – cum - III Additional District Judge, Guntur as against the claim of Rs. 2,35,000/- laid under Sections 163-A and 166 of Motor Vehicles Act and Rule 455 of Andhra Pradesh Motor Vehicle Rules.

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

4. The facts leading to preferring the instant appeal are on 29.9.2000 at about 9.00 A.M., while the deceased Peetha @ Ketha Venkateswara Rao was driving the car belonging to the second respondent from Gannavaram side on G.T. Road and when it reached near Veternary Hospital, the driver of the first respondent, drove the first respondent's lorry at high speed in a rash and negligent manner and dashed the car and due to which, he received

fatal injuries and succumbed to injuries. The concerned police also registered a crime against the driver of the lorry. The petitioners claimed that the deceased was aged about 38 years and he used to earn Rs. 2,000/- per month as salary and Rs. 400/- to Rs. 500/- per month as batta. The deceased died leaving his wife, children and mother, who are the petitioners herein, and, therefore, they sought compensation of Rs. 2,35,000/-.

5. The first and second respondents were set *ex-parte* and third respondent filed written statement alleging that the petition averments are all false and the petition is not maintainable.

6. The Tribunal framed three issues about the responsibility for the accident. Initially, the first petitioner examined herself as PW-1 besides examining PW 2 and marked Exs. A1 to A6 and on behalf of the third respondent, no oral or documentary evidence is adduced.

7. On appraisal of evidence on issue No. 1, in conformity with the evidence of PW-2, the Tribunal held in favour of petitioners and against the first respondent. On issue No. 2, the Tribunal taking the age of the deceased at the time of accident as 46 years and by applying multiplier '9' and the monthly income at Rs. 2,500/- and after deducing 1/3rd amount towards personal expenses, arrived at Rs. 20,000/-, towards the contribution of the deceased to his family and after applying multiplier '9', the Tribunal arrived at Rs. 1,80,000/- as compensation besides granting Rs. 5,000/- towards consortium and Rs. 3,000/- towards funeral expenses.

8. The multiplier '9' adopted by the Tribunal requires modification in view of the decision of the Hon'ble Apex Court in **Sarla Verma v. Delhi Transport Corporation**, as per the table formulated fixing the relevant multiplier under vertical Column- IV, in which case, the petitioners would become entitled to more than the amount claimed. However, the learned counsel appearing for the 3rd respondent-insurance company fairly concedes that the amount claimed at Rs. 2,35,000/-, as compensation, may be granted, since the difference

between the amount determined by the Tribunal at Rs. 1,88,000/- and the amount claimed at Rs. 2,35,000/- being Rs. 47,000/-.

9. In view of the said submission of the learned counsel for the 3rd respondent- insurance company, the appeal is allowed granting Rs. 2,35,000/-, which is the amount claimed as compensation by the petitioners as against the amount of Rs. 1,88,000/- awarded by the Tribunal, however, with interest at 7.5% per annum 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**, as against 9% per annum awarded by the Tribunal. There shall be no order as to costs.

10. As a sequel thereto, Miscellaneous Applications, if any, pending in this appeal shall stand disposed of.

A. SHANKAR NARAYANA, J

DATE: 13.02.2015.

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