HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

M.A.C.M.A.No.1143 of 2005

<u>JUDGMENT:</u>

Dissatisfied with the award of Rs.1,54,000/-, as against the claim of Rs.3,50,000/-, laid under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'), by the order dated 25.02.2005 in O.P.No.41 of 2004 on the file of the Chairman, Motor Accidents Claims Tribunal – cum- I Additional District Judge, Karimnagar, the petitioners preferred the instant appeal seeking to grant balance amount.

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

Facts, in brief, are that, on 30.07.2002, the deceased, who is the son of the petitioners, having attended the mason work at Karimnagar, boarded an auto bearing No.AP-1-U-2032, along with others, to go to his native place Gangipalli and, since the auto driver was driving it in a rash and negligent manner, he lost control over it near Sadashivapalli Village, as a result, dashed against the bus coming in the opposite direction, resultantly, the deceased sustained fracture injuries and he was shifted to Government Hospital, Karimnagar and since his condition was serious, he was referred to Nizam Institute of Medical Sciences at Hyderabad, but he succumbed to injures on 10.08.2002 while undergoing treatment thereat. The deceased was 23 years old, earning Rs.3,000/- p.m. by doing masonry work and, because of the sudden death of the deceased, the petitioners were put to lot of suffering.

Respondent Nos.1 and 2 filed separate counters. Respondent No.1, while making general denial of the averments, contended that the driver was holding valid driving licence and it was validly insured with the second respondent – Insurance Company and, therefore, 2nd respondent is liable to pay compensation.

Respondent No.2 opposed the claim contending that the first respondent did not possess valid driving licence and the auto was not validly insured with it.

The Tribunal, basing on the said pleadings, framed three issues about the responsibility for the accident. During enquiry, PWs.1 to 3 were examined on behalf of the petitioners and marked Exs.A.1 to A.8. On behalf of the respondents, RW.1 was examined and marked Exs.B.1 to B.3.

On issue No.1, the Tribunal, having considered the evidence of PW.2 and RW.1, held it in favour of the petitioners. On issue No.2 also, the Tribunal found that the petitioners being the parents and legal representatives of the deceased, are entitled to compensation. On issue No.3, acceding to the stand of the petitioners that the deceased was earning Rs.3,000/- p.m. basing on evidence of PWs.2 and 3 and since the deceased died in unmarried status, taken 1/3rd towards contribution to the family, and considering the age of younger parent as 47 years, applied multiplier '12' as per the second Schedule to Section 163 A of the Act and, thus, worked out the loss of dependency at Rs.1,44,000/-, besides granting Rs.5,000/- each towards love and affection to the petitioners. Thus, a total sum of Rs.1,54,000/- was granted by the Tribunal as compensation with interest at 9% p.a.

It is the aforesaid order which is under challenge by the petitioners on the ground that meagre compensation was awarded, contending in the grounds that the Tribunal was not right in deducting 2/3rd of the earnings towards personal expenses and considering 1/3rd towards loss of dependency. It is also stated that the multiplier '17' ought to be applied as the deceased was 23 years old, but not '12'. It is still further stated that, even, multiplier '13' is relevant, but not '12' as per the second schedule. It is also stated that the Tribunal ought to have granted conventional sum of Rs.50,000/- towards loss of estate and, therefore, sought to grant balance amount.

Heard Sri V.Ramchandar Rao, learned counsel for the appellant, and Smt.S.A.V.Ratnam, learned counsel for the second respondent. No representation for the first respondent.

Perused the order and oral and documentary evidence let in by both sides. Since the finding recorded by the Tribunal is not challenged by the second respondent, on the income determined by the Tribunal at Rs.3,000/- p.m. on the profession of masonry of the deceased, the said finding stands undisturbed. So far as contribution to the petitioners by the deceased is concerned, the Tribunal is certainly not correct in deducting 2/3rd towards personal expenses and 1/3rd towards contribution to the family, in view of the settled principle of law. Therefore, deducting 50% towards personal expenses as per the decision of the Hon'ble Supreme Court in Sarla Verma v. Delhi Transport Corporation, the remainder i.e. Rs.1500/- p.m. is taken as contribution to the family, which works out to Rs.18,000/- per annum. The relevant multiplier is '18' for the age group between 20 and 25 as per the above decision. In view of the decision of the Hon'ble Apex Court in Amrit Bhanu Shali v. National Insurance Company, multiplier '18' is applicable. Thus, when multiplier '18' is applied, the loss of dependency works out to Rs.3,24,000/-. This apart, Rs.10,000/- granted by the Tribunal towards love and affection, Rs.5,000/- towards funeral expenses and Rs.10,000/- towards loss of estate are confirmed. Thus, the petitioners are entitled to a total compensation of Rs.3,49,000/- as against Rs.1,54,000/- granted by the Tribunal. Concerning rate of interest, the Tribunal has granted interest at 9% per annum on the amount of Rs.1,54,000/- granted as compensation. But, in view of the decision of the Hon'ble Apex Court in Rajesh v. Rajbir Singh, the petitioners are entitled to the interest at the rate of 7.5% per annum. Thus, the petitioners are entitled to the interest at the rate of 7.5% per annum on the total compensation of Rs.3,49,000/- from the date of petition till realization.

Thus, the appeal is allowed in part, enhancing the compensation from Rs.1,54,000/- granted by the Tribunal to Rs.3,49,000/-, but reducing the rate of interest from 9% per annum to 7.5% per annum on the total sum of

Rs.3,49,000/- from the date of petition till realization. No order as to costs.

Miscellaneous petitions pending, if any, shall stand disposed of.

A.SHANKAR NARAYANA,J

Date: 24.03.2015

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