

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

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M.A.C.M.A.No.196 of 2013
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JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988, challenging the award and decree, dated 29.08.2012 passed in M.V.O.P.No.285 of 2010 on the file of Motor Accident Claims Tribunal-cum-I Additional District Judge, Ongole.

2. The parties herein will be referred to, as they are arrayed before the Tribunal.

3. On 28.06.2010, Duddela Kesavulu was proceeding to the hotel from a brick kiln on a wooden plank rickshaw. In the meanwhile, the driver of lorry bearing No.AP-16-TW-4151 drove the same in a rash and negligent manner and dashed the rickshaw. The accident occurred due to rash and negligent driving of the driver of the lorry, against whom the Station House Officer, Darsi registered a case in Crime No.87 of 2010 for the offence punishable under Section 304-A IPC. Deddela Kesavulu (hereinafter referred to, as 'the deceased') died of injuries sustained in the accident. By the time of accident, the deceased was aged about 18 years and he used to earn Rs.4,000/- per month. Petitioners are parents of the deceased. The petitioners are depending on the income of the deceased. Hence, the present petition is filed claiming compensation of Rs.4,00,000/-. Lorry bearing No.AP-16-TW-4151, which belongs to the 1st respondent, was insured with the 2nd respondent with effect from 08.09.2009 to 07.09.2010, as such respondents 1 and 2 are jointly and severally liable to pay compensation to the petitioners.

4. The 1st respondent remained *ex parte*. The 2nd respondent filed counter denying all the allegations made in the petition including the manner of the accident, age and income of the deceased. As the

driver of the lorry was not having valid and effective driving licence at the time of accident, hence, there is no obligation on the part of this respondent to indemnify the liability of the 1st respondent. The amount of compensation claimed by the petitioners under various heads is highly excessive and exorbitant.

5. Basing on the above pleadings, the Tribunal framed the following issues.

(1) Whether the accident occurred due to rash and negligent driving of lorry bearing No.AP-16-TW-4151 by its driver?

(2) Whether the petitioners are entitled to compensation. If so, to what amount and from whom?

(3) To what relief?

6. During trial, on behalf of the petitioners, P.W.1 was examined and Exs.A.1 to A.4 were marked. On behalf of the respondents, no oral evidence was let in, but Ex.B.1 was marked.

7. Basing on the oral and documentary evidence and other material available on record, the Tribunal arrived at a conclusion that the accident occurred due to rash and negligent driving of driver of the lorry, which resulted in death of the deceased and allowed the petition in part and awarded compensation of Rs.3,34,000/- with interest at 9% per annum from the date of petition till the date of realisation.

8. Being not satisfied with the compensation awarded by the Tribunal, the claimants preferred the present appeal.

9. The contention of learned counsel for the petitioners is that the Tribunal committed error while taking the age of mother of the deceased instead of age of the deceased to adopt appropriate multiplier and the Tribunal has not awarded just and reasonable

compensation.

10. Per contra, learned counsel for the 2nd respondent submitted that the Tribunal has rightly taken the age of mother of the deceased to adopt appropriate multiplier. He further submitted that the Tribunal has awarded just and reasonable compensation.

11. Basing on the rival contentions, the point that arises for consideration in this appeal is whether the Tribunal has awarded just and reasonable compensation or not?

12. **POINT:**

The finding of the Tribunal that the accident was occurred due to rash and negligent driving of driver of lorry bearing No.AP-16-TW-4151 has become final in view of none filing of the appeal by the respondents. Therefore, there is no necessity to deal with the said aspect elaborately in this appeal.

13. Taking into consideration the age and occupation of the deceased and other attending circumstances, the Tribunal arrived at a conclusion that the deceased may earn Rs.3,600/- per month. Even by attending coolie work, one may get not less than Rs.120/- per day. The Tribunal has not committed error in assessing the monthly income of the deceased as Rs.3,600/- per month. After deducting half of income towards personal expenses of the deceased, the contribution to the family works out to Rs.1,800/- per month and per annum it comes to Rs.21,600/-.

14. The predominant contention of learned counsel for the petitioners is that the Tribunal committed error in applying the multiplier. On perusal of the record, it reveals that the Tribunal has taken the age of mother of the deceased to determine the multiplier. At this juncture the learned counsel for the petitioners has drawn my attention to **MUNNALAL JAIN AND ANOTHER v. VIPIN KUMAR**

SHARMA AND OTHERS^[1]. As per the principle enunciated there, where the deceased is unmarried, the Tribunal or the Court has to take into consideration the age of the deceased, but not the age of parents of the deceased, to adopt appropriate multiplier. The oral and documentary evidence available on record clinchingly establishes that the deceased was aged about 18 years by the time of death. As per the principle enunciated in **Sarla Verma Vs. Delhi Transport Corporation**^[2], appropriate multiplier is '18' for the age group of 15 to 25. The loss of dependency comes to Rs.21,600 X 18 = Rs.3,88,800/- . The Tribunal awarded an amount of Rs.5,000/- towards loss of dependency and Rs.5,000/- towards funeral expenses.

15. The compensation for which the petitioners are entitled is as follows:

Loss of dependency	: Rs.3,88,800/-
Loss of estate	: Rs. 5,000/-
Funeral expenses	: Rs. 5,000/-

Total	: Rs.3,98,800/-

Petitioners are also entitled for interest on enhanced amount of compensation at the rate of 7.5% per annum from the date of the petition till the date of realization.

16. In the result, the appeal is allowed in part enhancing the compensation amount from Rs.3,34,000/- to Rs.3,98,800/-. The petitioners are also entitled to interest at the rate of 7.5% per annum on the enhanced amount of compensation from the date of petition till the date of realization. Miscellaneous petitions, if any, pending shall stand closed. There shall be no order as to costs.

T.SUNIL CHOWDARY, J

AUGUST 21, 2015
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THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

M.A.C.M.A.No.196 of 2013

Dt: 21.08.2015

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[\[1\]](#) (2015)6 Supreme Court Cases 347

[\[2\]](#) (2009) 6 SCC 121