

THE HON'BLE SRI JUSTICE G.SHYAM PRASAD

M.A.C.M.A No.1675 of 2006

JUDGMENT:

This Appeal, under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), is arising out of the Award, dated 20.04.2006, in O.P.No.499 of 2003 passed by the IV Additional Metropolitan Sessions Judge-cum-XVIII Additional Chief Judge, Hyderabad.

2. The appellants herein are the petitioners and the respondents herein are the respondents before the Court below.

3. For convenience sake, the parties are arrayed before the Court below.

4. Petitioners 1 to 3 are wife, son and mother of the deceased G.Anjanna, who died in a motor accident on 31.01.2003. At the time of accident, the deceased was aged about 35 years working as Hamali. The petitioners, being legal heirs of the deceased, claimed compensation of Rs.5,00,000/- with interest @ 18% per annum.

5. The Tribunal, on consideration of evidence available on record, awarded compensation of Rs.2,81,636/- with proportionate costs and interest @ 7.5% per annum. The petitioners, aggrieved by the quantum of compensation awarded by the Court below, filed this appeal for enhancement of compensation.

6. The point for consideration in this appeal is whether there are sufficient grounds for enhancement of compensation?

7. Learned counsel for the appellants is not present and there is no representation. However, keeping in view the grounds of appeal and on hearing the arguments of learned Standing counsel for the 2nd

respondent-United India Insurance Company, this appeal is disposed of.

8. The claim against R.1 was dismissed for default vide Court order, dated 30.06.2016.

9. Learned counsel for the 2nd respondent submits that the dispute in this case is only with regard to quantum of compensation awarded by the Court below. He further submits that the Court below has properly appreciated the evidence on record by taking into consideration the income of the deceased at Rs.2,000/- per month and age of the deceased as 36 years. He further submitted that the Court below has rightly calculated the compensation and it does not require any interference by this Court.

10. The evidence of P.W.2 clearly reveals that the deceased was working as Hamali on his own Tractor. P.W.1 also supported the said fact. But, the Court below did not consider this aspect and held that P.W.1 has not filed any proof with regard to income of the deceased and age of the deceased and wrongly fixed the notional income of the deceased at Rs.2,000/- per month. But, this Court in ***Machineni Rama Devi and others Vs. M. Satyanarayana and another***¹, relying on the decision of the Supreme Court in ***Lakshmi Devi and others Vs. Mohd. Tabbar and another***², fixed the income of a deceased worker working in an unorganized sector, where there can be no evidence of the wages paid by them, as Rs.3,000/- p.m. In view of the said judgment, the income of the deceased is taken as Rs.3,000/- per month

¹ 2013 (6) ALD 178

² 2008 (3) ALD 129 (SC)

11. There is no dispute with regard to age of the deceased as 35 years by the date of accident. The appropriate multiplier in this case as per **Sarla Verma V. Delhi Transport Corporation**³ is 16.

12. In the instant case, the Court below adopted multiplier 17 for the age of 36 years. Therefore, the multiplier adopted by the Court below is more than the appropriate multiplier to be applied, which can be applied now as per the decision referred in the case of **Sarla Verma's case (3 supra)**. The income of the deceased is taken into consideration at Rs.3,000/- per month and after deducting 1/3rd towards his personal expenses, it comes to Rs.2,000/- (Rs.3000- 3000 x 1/3) per month towards contribution to his family. Accordingly, the annual income of the deceased would come to Rs.24,000/-. When the multiplier '16' is applied, the total contribution of the deceased to the family comes to Rs.3,84,000/- (Rs.24,000 x 16).

13. The Tribunal awarded an amount of Rs.2,000/- towards funeral expenses; Rs.2,000/- towards loss of estate and Rs.5,000/- towards loss of consortium. Perhaps, the Court below might have awarded this amount of compensation keeping the 2nd schedule of the Motor Vehicles Act, 1985 into consideration. Hence, the appellants are entitled for enhancement of compensation under these heads also:

14. On consideration of evidence available on record, this Court awarded the compensation as under:

Nature of compensation	Compensation awarded by the Tribunal	Compensation enhanced in this appeal
Compensation towards loss of dependency	Rs.2,72,136/-	Rs.3,84,000
Funeral expenses	Rs.2,000	Rs.5,000

³ (2009) 6 SCC 121

Loss of estate	Rs.2,000	Rs.5,000
Consortium	Rs.5,000	Rs.20,000
Total		Rs.4,14,000/-

15. In the result, the Appeal is allowed in-part and compensation awarded by the Tribunal is enhanced from Rs.2,81,636/- to Rs.4,14,000/- with interest @ 7.5% per annum from the date of petition till realization. If the respondents deposited any amount earlier, the balance amount shall be deposited within two months from the date of receipt of a copy of this appeal. In case, the amount is not deposited, the respondents are directed to deposit the entire amount within two (02) months from the date of receipt of a copy of this order. On such deposit, the appellants are entitled to withdraw the entire amount as per apportionment fixed by the trial Court.

Miscellaneous petitions, if any, pending in this appeal shall stand closed. There shall be no order as to costs.

JUSTICE G.SHYAM PRASAD

NOVEMBER 15, 2016
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Date:15.11.2016

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