HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A.Nos.1601 AND 1964 of 2012

COMMON JUDGMENT:

Former appeal is preferred under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act') by the petitioners in O.P. No.737 of 2010, on the file of the Chairman, Motor Accidents Claims Tribunal - cum - XI Additional District Judge (FTC), Ranga Reddy District (for short 'the Tribunal'), feeling aggrieved by the award and decree, dated 09.01.2012, passed in the said O.P., whereby and whereunder, the Tribunal awarded compensation of Rs.4,07,000/- as against the claim of Rs.5,00,000/- laid under Section 163-A of the Act for the death of one Ch.Prasanth Reddy, and sought to grant the balance amount.

2. Latter appeal is preferred by the National Insurance Company Limited, respondent No.2 in the said OP, aggrieved over the very same order and decree referred to in the above, mainly on the ground that the Tribunal, having made a definite observation that the turnover of the business conducted by the deceased was at Rs.8,000/- per month and the deceased would be getting profit at 25% thereof, but, still taken the monthly income at Rs.4,000/-, instead of Rs.2,000/-, and it ought to have deducted 50%, since the deceased died in unmarried status, and ought to have applied multiplier '13' as per the decision of the Hon'ble Supreme Court in **Sarla Verma &**

others v. Delhi Transport Corporation and another[1] and also the interest awarded at 7.5% per annum is excessive.

3. The appellants in the former appeal, who are respondent Nos.1 to 4 in the latter appeal, are petitioners, while respondent Nos.1 and 2 in the former appeal, who are the appellant and respondent No.5 in the latter appeal, are respondent Nos.1 and 2, respectively, in the O.P before the Tribunal.

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

5. The fact-situation is not in dispute. Therefore, there is no need to probe into the manner in which the accident occurred, the age of the deceased and the death of the deceased occurring in unmarried status.

6. Service of notice on respondent No.1 in the former appeal, who is respondent No.5 in the latter appeal, was not completed, but, however, he remained *ex parte* before the Tribunal and suffered decree and his absence in deciding the request herein makes no difference, since the Insurance Company questioned the quantum of compensation, but has not complained any violation of the terms and conditions of the policy.

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1 (2009) 6 Supreme Court Cases 121

7. The relevant aspects that require consideration in these appeals are:- (1) Whether the amount of Rs.4,000/- towards monthly earnings fixed by the Tribunal can be maintained?, and (2) Whether the multiplier factor '15' adopted by the Tribunal is correct?

8. The observation made by the Tribunal in paragraph '7' under issue No.2 is clear to the effect that the documents relied on by the petitioner would reflect that the business turnover of the deceased was Rs.8,000/- and odd and he would be getting profit at the rate of 25% on the business turnover and thereafter, observed that, in its considerable opinion, the deceased must have earned an amount of Rs.4,000/- per month as net profit out of his business. In the absence of documentary evidence to show the turnover of the business of the deceased, the Tribunal was not right in taking Rs.4,000/- as monthly earnings. However, in view of the law declared by the Hon'ble Supreme Court, the minimum earnings of the deceased can be taken at Rs.3,000/- per month. When the said amount is taken as monthly earnings of the deceased as against Rs.4,000/- per month fixed by the Tribunal, the annual income would work out to Rs.36,000/- and, by deducting 50% thereof towards personal expenses, as the deceased died in unmarried status, his contribution to the family works out to Rs.18,000/-.

9. The Tribunal has taken multiplier factor '15', basing on the age of the younger parent of the deceased i.e., the mother of the

deceased, but the law is well settled now that for fixation of the multiplier factor, the age of the deceased, though, died as unmarried, has to be considered and, therefore, multiplier factor '18' would be the relevant multiplier since the deceased was aged 23 years at the time of accident, as provided in the table formulated by the Supreme Court in **Sarla Verma**'s case referred to above. When multiplier factor '18' is applied, the loss of dependency works out to Rs.3,24,000/-. Towards love and affection, the Tribunal granted Rs.30,000/- @ Rs.10,000/- each to petitioner Nos. 2 to 4, towards pain and suffering, an amount of Rs.15,000/- @ Rs.5,000/- each to petitioner Nos. 2 to 4 was granted and towards funeral expenses, an amount of Rs.2,000/- was granted, and the same are maintained.

10. Thus, the petitioners are entitled to a total sum of Rs.3,71,000/- towards compensation as against Rs.4,07,000/- granted by the Tribunal, and the same is, accordingly, granted. The rate of interest awarded by the Tribunal is 7.5% per annum. Since the same is in accordance with the rate of interest awarded by the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**[2], the same rate of interest is maintained on Rs.3,71,000/- awarded by this Court from the date of petition till realization.

11. Accordingly, the appeal in MACMA No.1601 of 2012 is dismissed and the appeal in MACMA No.1964 of 2012 is allowed in

[2] 2013 ACJ 1403

part, modifying the order and decree, dated 09-01-2012, in O.P. No.737 of 2010, passed by the Tribunal, by reducing the compensation from Rs.4,07,000/- to Rs.3,71,000/-, as indicated above, and confirming the same in all other respects. There shall be no order as to costs.

12. As a sequel thereto, pending miscellaneous applications, if any, in the appeals, stand disposed of.

A. SHANKAR NARAYANA, J

08.09.2016
v v