HON'BLE SRI JUSTICE G. SHYAM PRASAD

M.A.C.M.A. No. 2 OF 2006

JUDGMENT:

This appeal is arising out of order, dated 29.10.2005, passed in M.V.O.P.No.130 of 2002, by the Chairman, Motor Accidents Claims Tribunal-cum-IV Additional District Judge, East Godavari District, Kakinada (for short, 'the Tribunal').

The appellants are the claimants in M.V.O.P.No.130 of 2002 filed under Section 166 of Motor Vehicles Act, 1988 (for short, 'the Act') read with Rule 455 of A.P. Motor Vehicles Rules, 1989 claiming compensation of Rs.4,50,000/- with interest @ 24% per annum and costs on account of death of Panchangam Jhansi Rani (hereinafter referred to as the deceased) in a motor vehicle accident occurred near gate of water works, Ramaraopeta, Kakinada on 29.05.2001.

The 1st petitioner is the mother and the 2nd and 3rd petitioners are the sisters of the deceased. The deceased was working as Archaki in Kanaka Durga Temple near Town Railway Station, Kakinada. She was also doing tailoring business by stitching blouses and petty coats and thus earning Rs.150/- per day. On 29.05.2001 at 06.00 p.m., while the deceased went to her friends house and while returning home by walk, at about 9.30 p.m., and when she reached near the gate of water works, Ramaraopeta, one auto bearing No.AP 5X 6286, driven by the 1st respondent, dashed against her from her rear side, as a result of which, she fell down and received grievous injuries on her head and she became unconscious and was admitted in GGH, Kakinada and died on 30.05.2001 at 5.30 a.m. Police registered a case against the driver of the auto - respondent No.1, owner of the auto - respondent No.2, and the insurer of the vehicle - respondent No.3. Hence, respondent Nos.1 to 3 are jointly and severally liable to pay the compensation.

The Tribunal, on consideration of the evidence of the witnesses PWs.1 and 2 and considering the documents Exs.A1 to A6 and B1, awarded compensation of Rs.1,62,000/-.

The appellants being aggrieved by the quantum of compensation of Rs.1,62,000/-, which is far less than the compensation of Rs.4,50,000/-, claimed by them, filed the present appeal.

The main contention of the learned counsel for the appellants, in this appeal, is that the Tribunal has awarded meager compensation on account of the death of the deceased. The other contention is that the correct multiplier has not been applied in this case and the compensation awarded by the Tribunal is very less. The last contention of the appellants is that the rate of interest awarded is on lower side.

Coming to the 1st submission of learned counsel for the appellants, as the appellants herein did not produce any piece of evidence to show the exact income of the deceased, the Tribunal, relying on the decisions of the Supreme Court and this Court, keeping in mind the 2nd schedule, clause 6 of Section 163-A of the Act, had taken the monthly income of deceased at Rs.1,250/- and her annual income as Rs.15,000/-. 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. But, the Tribunal erroneously had taken the annual income of the deceased at

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[1] 2013 (6) ALD 178

[2] 2008 (3) ALD 129 (SC)

Rs.15,000/-. However, in view of the decisions referred supra, this Court is of the opinion to treat the monthly income of deceased as Rs.2,500/- and her annual income comes to Rs.30,000/- and if 1/3rd is deducted from it, towards her personal expenses, it comes to Rs.20,000/- per annum and if the same is multiplied with the multiplier applicable to the age group of the deceased *i.e.,* '16', belonging to the age group of 35 years to 40 years, as per Section 163-A of the Act, notional income of deceased under the head of loss of estate would come to Rs.3,20,000/-.

Coming to the compensation claimed under other heads *i.e.,* Rs.5,000/- towards transportation and medical expenses, as the appellants herein failed to produce any documentary proof in support thereof and also the deceased underwent treatment in Government Hospital only for two days, the Tribunal did not find any ground to award compensation under the relevant head. Coming to compensation of Rs.15,000/- claimed under the heads of funeral expenses and loss of love and affection, the Tribunal only awarded Rs.2,000/- towards funeral expenses, which is on lower side and this Court feels the same be enhanced to Rs.10,000/- under the two heads. Thus, the appellants herein are entitled to an amount of Rs.3,30,000/-

In view of last submission that the rate of interest is on lower side, it is appropriate to refer to the decision rendered by the Supreme Court in the case of *Puttamma and others Vs. K.L. Narayana Reddy and another*[3]. As per the decision of the Supreme Court in *Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another*[4], which affirmed the case of *Reshma Kumari and others Vs. Madan Mohan and another*[5], it was clear

[3] MANU/SC/1321/2013
[4] 2009 (6) SCC 121
[5] 2013 (9) SCC 65

from 2nd schedule, sub-clause 3 of Section 163-A of the Act, enacted in the year 1994 now became redundant, irrational and unworkable due to the changed scenario including the present cost of living, current rate of inflation and increased life expectancy. In *Smt. Supe Dei and others Vs. National Insurance Company Limited and another*[6], the Supreme Court held that proper rate of interest would be 9% p.a. It was observed that in view of Section 171 of the Act, the Tribunals and Courts to decide rate of interest after taking into consideration rate of interest allowed by Supreme Court in similar case and other factors such as inflation, change in economy, policy adopted by the Reserve Bank of India from time to time and the period since when the case is pending.

In a Larger Bench decision of this Court in *A.P.S.R.T.C. and another Vs. B. Vijaya and other*[7], it was observed as under at Para 85:

> "We have earlier noticed that in many cases interest has been awarded at 12% and in one case the Supreme Court has awarded interest at 15% per annum. In some cases, interest has been reduced from 12% to 9%, 9% to 6% and in some cases it was enhanced from 6% to 12% or 6% to 9% which would only show that the Courts have exercised their discretion in reducing or enhancing the rate of interest depending upon the facts and circumstances of each case. In our considered opinion, while granting interest on the compensation amount awarded, the Tribunal or the Court shall award the rate of interest, which is just and reasonable on an analysis of the facts and circumstances obtaining in the case."

In another decision of the Supreme Court in *Dharampal and others Vs. U.P. State Road Transport Corporation*[8], the Supreme Court has enhanced the rate of interest from 6% to 7.5% p.a. and held as follows in Para 14:

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[6] 2009 (4) SCC 513
[7] MANU/AP/0724/2002
[8] MANU/SC/7680/2008

> "In the backdrop of the aforesaid legal position, we may now examine the facts of the present case. The accident in the present case had taken place on 01.09.2004 and the Tribunal had passed the award on 18.05.2005. Rate at which the interest is to be awarded would normally depend upon the bank rate prevailing at the relevant time. Since in the case of Tamil Nadu State Transport Corporation Limited (supra) decided in the month of April, 2005, the prevailing rate of interest on bank deposits was found and held to be 7.5% per annum, we consider it appropriate to award the same rate of interest, as the same was the prevailing rate of interest on the date of passing of the award i.e. 18.05.2005 in the present case. Consequently, we hold that the appellants would be entitled to be paid interest at the rate of 7.5% from the date of application till the date of payment."

In view of the facts and circumstances of this case, keeping in view of the guidelines of the rate of interest fixed by the Reserve Bank of India and the practice of the Banks in granting interest, the rate of interest in the present appeal is enhanced from 6% to 7.5% p.a. from the date of petition till the date of realization.

In the result, the appeal is allowed in part, enhancing the compensation awarded from Rs.1,62,000/- to Rs.3,30,000/- with proportionate costs and interest at the rate of 7.5% p.a., from the date of the petition till the date of realization. The respondents are directed to deposit the balance amount, out of Rs.3,30,000/- awarded, within three months from the date of this judgment. The appellants are permitted to withdraw half of the amount immediately after its deposit; balance amount shall be withdrawn by the appellants after the expiry of the appeal time. Further, the appellants are permitted to withdraw the amount in ratio as fixed by the tribunal.

As a sequel to the disposal of the appeal, miscellaneous petitions, if any, pending in this appeal, shall stand closed.

G. SHYAM PRASAD, J

Date.04-11-2016.
ES/DSH.

HON'BLE SRI JUSTICE G. SHYAM PRASAD

M.A.C.M.A. No. 2 OF 2006

Date. 04.11.2016

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