HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1691 OF 2009

JUDGMENT:

Having got dissatisfied with the award of Rs.1,63,500/- as compensation by the order dated 18.01.2008 in O.P. No.141 of 2005 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-VII Additional District Judge, Mahabubnagar (for short, 'the Tribunal') as against the claim of Rs.3,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') read with the Rules framed thereunder for the death of one Panuganty Ramaswamy, father of appellant Nos.1 to 3 and husband of appellant No.4, in a road accident, the instant appeal is preferred under Section 173 of the Act seeking enhancement of compensation.

2. Appellant Nos.1 to 4 herein, who are the sons and wife of the said Panuganty Ramaswamy, are petitioner Nos.1 to 4, while the sole-respondent herein, who is the erstwhile Andhra Pradesh State Road Transport Corporation, Mahabubnagar, represented by its Regional Manager (for short, 'respondent-Corporation'), is the respondent in the original petition.

3. For the sake of convenience, the parties hereinafter referred to as they were arrayed before the Tribunal in the original petition.

4. The facts would show that one Panuganty Ramaswamy (deceased), on 29.11.2004 at about 6-00 p.m., along with his brother-

in-law, boarded an RTC bus bearing registration No.AP 10Z 356 to go to Uppanunthala village and since the driver of the bus drove it in a rash and negligent manner, the deceased fell down from the bus and came under the rear wheels and died instantly. The petitioners, claiming that the deceased was 50 years old and an agriculturist, sought a sum of Rs.3,00,000/- as compensation from the respondent-Corporation.

5. The claim was opposed by the respondent-Corporation.

6. Basing on the pleadings, the Tribunal framed three issues about the responsibility for the accident.

7. During enquiry, petitioner No.4 examined herself as P.W.1 besides examining one P.Ramulu, an eyewitness to the accident, as P.W.2 and marked Exs.A.1 to A.8 on behalf of the petitioners; whereas, on behalf of the respondent-Corporation, its driver was examined as R.W.1, but no documents were filed.

8. The Tribunal, on appraisal of evidence on record, both, oral and documentary let in by both the parties, while recording findings in favour of the petitioners on all the issues, taken the age of the deceased as 50 years, the annual income of Rs.18,000/-, deducted 1/3rd therefrom towards personal expenses of the deceased and applying multiplier '13' as per the Schedule II of Section 163-A of the Act, arrived the loss of dependency at Rs.1,44,000/-. Besides the same, the Tribunal also granted Rs.15,000/- towards loss of

consortium, Rs.2,000/- towards funeral expenses and Rs.2,500/- towards loss of estate, making a total of Rs.1,63,500/- and granted the same with interest at 7.5% per annum from the date of petition till payment.

9. It is the aforesaid order which is under challenge in the instant appeal contending in the grounds that the Tribunal ought to have taken minimum of Rs.3,000/- as the monthly earnings of the deceased and the notional income at Rs.1,500/- per month taken by the Tribunal was improper and, therefore, sought to grant the balance amount.

10. Heard Sri T.Kumar Babu, learned counsel for the appellants-petitioners. Despite completion of service on the respondent-Corporation, none appears for it.

11. Perused the order and the material on record. It is the submission of learned counsel for the appellants-petitioners that a minimum of Rs.3,000/- ought to have taken as the monthly earnings of the deceased in view of the decisions of the Hon'ble Supreme Court, more particularly, when the deceased is an agriculturist. Exs.A.7 and A.8 are the copies of passbooks filed by the petitioners, of course, nothing was discussed by the Tribunal about the entries therein. In which case, certainly, the earnings of the deceased can be taken as Rs.3,000/- per month or Rs.36,000/- per annum. Of course, the Tribunal has taken the age of the deceased as 50 years, in the

absence of any proof of age of the deceased at the time of accident, the same is accepted for applying structural formula. Since the dependents are four in number, 1/4th deduction is permissible towards personal living expenses of the deceased in view of the law declared by the Hon'ble Supreme Court in **Sarla Verma & others v. Delhi Transport Corporation and another**[1], which would work out to Rs.9,000/-. In which case, his contribution to the family would work out to Rs.27,000/- (Rs.36,000/- – Rs.9,000/-). When multiplier '13' is applied, loss of dependency works out to Rs.3,51,000/- (Rs.27,000/- x 13). Besides the same, the petitioners are also entitled to a conventional sum of Rs.50,000/- in view of the decision of the Hon'ble Supreme Court in **Ramilaben Chinubhai Parmar Vs. National Insurance Company**[2].

12. Petitioners laid the claim for Rs.3,00,000/- only, but, certainly, they cannot be deprived of Rs.4,01,000/-, though, it exceeds the claim made by them, in view of the decisions of the Hon'ble Apex Court in **Nagappa v. Gurudayal Singh and others**[3], **Sri Laxman @ Laxman Mourya v. Divisional Manager, Oriental Insurance Company Limited**[4] and **Rajesh and others v. Rajbir Singh and others**[5], wherein, it was held that it is the duty of the Courts to award just, equitable, fair and reasonable compensation with reference to the settled principles of law irrespective of the claim made.

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[1] (2009) 6 SCC 121
[2] LAWS (SC) -2014-4-67
[3] AIR 2003 SC 674
[4] 2012 ACJ 191 (SC)
[5] 2013ACJ1403 = 2013(4)ALT35

13. Thus, the petitioners are entitled to a total sum of Rs.4,01,000/- (Rupees four lakhs and one thousand) as against Rs.1,63,500/- granted by the Tribunal towards compensation and the same is accordingly granted. However, the petitioners are directed to pay Court fee on the excess amount granted by this Court than the claim within a period of three months from today.

14. So far as the rate of interest is concerned, the Tribunal granted the same at 7.5% per annum and the same is maintained on the entire amount of compensation in view of the decision of the Hon'ble Supreme Court in **Rajesh's** case (supra 5).

15. Accordingly, the instant appeal is allowed modifying the order passed by the Tribunal, by enhancing the compensation, as indicated above, and confirming the same in all other respects. There shall be no order as to costs.

16. As a sequel thereto, miscellaneous applications, if any pending in the instant appeal, stand closed.

A. SHANKAR NARAYANA, J

15th September, 2016

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