HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1996 of 2009

JUDGMENT :

This Civil Miscellaneous Appeal, under Section 173 of the Motor Vehicles Act, 1988 (for brevity "the Act"), is preferred by the appellant – New India Assurance Company Limited (for brevity "the insurer"), challenging the order and decree dated 25.05.2006, passed in O.P.No.12 of 2005 by the Motor Accidents Claims Tribunal-cum-Additional District Judge, Hindupur, Anantapur District (for brevity "the Tribunal"), whereby and whereunder a sum of Rs.1,68,000/- was awarded towards compensation, as against the claim of Rs.2,50,000/- laid by respondent Nos.1 and 2 – petitioners, under Sections 140 and 166 of the Act, read with Rule 455 of A.P. Motor Vehicle Rules, 1989, for the death of one Mattavula Rangappa in a road accident that occurred on 14.10.2004 at 8.00 a.m.

2. The appellant - New India Assurance Company Limited is respondent No.2, respondent Nos.1 and 2 herein are the claim petitioners, and respondent No.3 – owner of the offending lorry bearing No.TN 09S 8071 is respondent No.1 in O.P.No.12 of 2005. For the sake of convenience, the parties are referred to as they were arrayed in O.P.No.12 of 2005, before the Tribunal.

3. The manner in which the accident had occurred in the instant case is not in dispute, except the quantum of compensation awarded by the Tribunal.

4. Heard Sri G. Vasantha Rayudu, learned Standing Counsel for the appellant – insurer and no representation for respondent Nos.1 and 2 – claim petitioners. Though, notice is served on respondent No.3 – owner, none appears for him.

5. Perused the order under challenge and also the evidence on record, both, oral and documentary.

6. The Tribunal has taken the earnings of the deceased as Rs.18,000/- per month and after deducting 1/3rd towards personal living expenses of the deceased, arrived at Rs.12,000/- towards contribution to the family. Since the deceased was aged about 43 years, the Tribunal has applied the multiplier factor '15', which is applicable for the age group of 40 to 45 years, and the compensation mentioned in the Second Schedule for a person earning Rs.12,000/- p.a., and worked out Rs.1,68,000/- towards loss of dependency.

7. In fact, in view of the law declared by the Hon'ble Supreme Court in **Munna Lal Jain and others v. Vipin Kumar Sharma and others**[1], 50% of the earnings have to be deducted towards personal living expenses of the deceased and the multiplier factor applicable to the deceased, who was

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[1] (2013) 6 SCC 347

aged about 43 years, is ‘15’. Even, if the other conventional sums awarded by the Tribunal are added, the compensation, to which the petitioners are entitled, would exceed the amount of compensation awarded by the Tribunal with interest @ 5% per annum. Therefore, there are no merits in the Civil Miscellaneous Appeal and the same is liable to be dismissed.

8. Accordingly, this Civil Miscellaneous Appeal is dismissed, confirming the order and decree dated 25.05.2006, passed in O.P.No.12 of 2005 by the Tribunal. No order as to costs.

9. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE A. SHANKAR NARAYANA

16.09.2016.
Msr

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