HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1659 of 2009
and
Cross-Objections (SR).No.36677 of 2009

JUDGMENT :

Assailing the judgment and decree dated 17.05.2006, passed in O.P.No.316 of 2001 by the Chairman-cum-I Additional Motor Accidents Claims Tribunal, Nizamabad District (for brevity "the Tribunal"), whereby and whereunder a sum of Rs.3,35,000/- was awarded towards compensation with interest at 9% per annum, as against the claim of Rs.12,50,000/-, made under Sections 166 (i)(c) of the Motor Vehicles Act, 1988 (for brevity "the Act"), for the death of one Smt. Varam Narsu Bai in a road accident that occurred on 25.08.2000 at Gundaram Crossing Road, due to the rash and negligent driving by the driver of the bus bearing No.AP 9Z 8789 belonging to the erstwhile A.P. State Road Transport Corporation (for brevity "the Corporation"), while the respondents – Corporation preferred the present Civil Miscellaneous Appeal, mainly on the ground that the compensation awarded by the Tribunal is on higher side, without there being any legal and acceptable evidence on record; the petitioners-claimants, who are the husband and sons of the deceased – Smt. Varam Narsu Bai, being her legal representatives, have preferred the Cross-objections, seeking enhancement of compensation, on the ground that the Tribunal ought to have granted atleast Rs.4,00,000/-, as against the amount determined at Rs.3,35,000/- with interest @ 24% per annum, that there was no proper appreciation of evidence of P.W.2, that as the deceased was earning Rs.4,000/- per month and contributing the same towards maintenance of the family, the Tribunal ought to have applied the multiplier factor '20', instead of '13'.

2. The appellants – Corporation are respondents and the respondents are petitioners-claimants in O.P.No.316 of 2001. For the sake of convenience, the parties are referred to as they are arrayed in O.P.No.316 of 2001 before the Tribunal.

3. Heard Sri N. Vasudeva Reddy, learned Standing Counsel for the appellants – Corporation, and Sri M. Raja Malla Reddy, learned counsel for the respondents - Cross-objectors.

4. Perused the impugned order and the evidence on record.

5. The fact situation occurring herein is not in dispute. The manner in which the accident had occurred and the

responsibility thereof is also not in dispute. The only dispute is with regard to quantification of compensation.

6. The Tribunal assessed the age of the deceased as 49 years and applied the multiplier ‘13’, basing on II-Schedule to Section 163 of the Act and also by placing reliance on the decisions of the Hon’ble Supreme Court in **Kaushnuma Begum v. New India Assurance Co. Ltd.**[1] and **Abati Bezbaruah v. Geological Survey of India**[2]. Even otherwise, in view of the decision of the Hon’ble Supreme Court in **Sarla Verma & others v. Delhi Transport Corporation and another**[3], the Tribunal has rightly applied the multiplier factor ‘13’ to determine appropriate amount towards loss of dependency. Therefore, there cannot be any infirmity in applying the multiplier factor ‘13’ by the Tribunal.

7. Turning to the earnings of the deceased, it is true that there cannot be any evidence where the deceased was rendering domestic services. Though, in the cross-objections, it is mentioned that the deceased was earning Rs.4,000/- per month, there is no whisper in the grounds raised by the petitioners/cross-objectors as to the avocation of the deceased. Still, the amount of Rs.3,000/- per month arrived

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[1] 2001 ACJ 428 (SC)
[2] (2003) 3 SCC 148
[3] (2009) 6 Supreme Court Cases 121

at notionally by the Tribunal cannot be disturbed and, therefore, the same is maintained. The amount awarded by the Tribunal towards loss of dependency or loss of domestic services rendered by the deceased at Rs.3,12,000/- also cannot be faulted.

8. Learned counsel for the petitioners/cross-objectors would submit that since there are five dependants on the deceased, 1/4th deduction towards personal and living expenses is permissible, but not 1/3rd deduction, in view of the decision of the Hon'ble Supreme Court in **Sarla Verma's** case (3 supra). But, as could be seen from the cause title, atleast 3 petitioners/cross-objectors are working as teachers and, in fact, the 1st petitioner/cross-objector is no other than the husband of the deceased, and even when gauged the ages of petitioner Nos.2 to 5, who were 30 years, 28 years, 26 years and 24 years, respectively, as on the date of filing of the claim petition, in strict terms, they cannot be construed as dependents on the deceased. Therefore, the amount of Rs.3,12,000/- granted by the Tribunal can be termed as the value of loss of domestic services rendered by the deceased and the same is confirmed towards the said head.

9. Further, the amount of Rs.20,000/- granted by the Tribunal towards loss of consortium is also maintained.

However, the funeral expenses granted by the Tribunal at Rs.2,500/- is enhanced to Rs.10,000/-. The rate of interest granted by the Tribunal @ 9% per annum is maintained on the compensation of Rs.3,35,000/- granted by the Tribunal. However, on the enhanced amount of Rs.7,500/-, now granted, interest @ 7.5% per annum is awarded.

10. Accordingly, while dismissing the Civil Miscellaneous Appeal filed by the appellants – Corporation, the Cross-objections filed by the petitioners/cross-objectors is allowed in part, enhancing the amount of compensation from Rs.3,35,000/- to 3,42,500/- (Rupees three lakhs forty two thousand five hundred only) with interest @ 9% per annum on Rs.3,35,000/- granted by the Tribunal, and @ 7.5% per annum on the balance amount of Rs.7,500/- from the date of the petition till realization. There shall be no order as to costs.

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

JUSTICE A. SHANKAR NARAYANA

11.08.2016.
Msr

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