THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.CMA.No.2327 OF 2009

JUDGMENT:

Having got dissatisfied with the award of Rs.4,25,700/- as compensation by order and decree, dated 11.04.2008, in O.P.No.2430 of 2006 on the file of Chairman, Motor Accidents Claims Tribunal – cum – III Additional Chief Judge, City Civil Court, Hyderabad, as against the claim of Rs.5,00,000/- originally laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'), the petitioners, who are the legal representatives of one Syed Azeem, who died in a road accident, in the said O.P. preferred the present appeal, under Section 173 of the Act, seeking enhancement of compensation. However, during pendency of the present appeal, the claim was raised from Rs.5,00,000/- to Rs.10,00,000/- by order, dated 10.06.2014, passed in M.A.CMA.MP.No.889 of 2014.

2. Since the fact situation, including the death of said Syed Azeem, is not in dispute, advertence to the relevant details gets obviated.

3. Heard M/s. Kasireddy Jagathpal Reddy, learned counsel for the appellants, and Sri N. Mohan Krishna, learned Standing Counsel for respondent No.2 – ICICI Lombard General Insurance Company Limited. Respondent No.1 – owner of the vehicle that involved in the accident, though, served with notice, has not entered appearance.

4. The order under challenge would reflect that the Tribunal has taken the age of the deceased as 29 years, occupation as auto driver, daily wage of Rs.100/- or Rs.36,000/- per annum, and deducting 1/3rd therefrom towards personal living expenses of the deceased, taken the remainder, Rs.24,000/- per annum as net contribution to the family, and applying multiplier factor '16.82' as provided in **Bhagwan Das v. Mohd. Arif**[1]**,** arrived at Rs.4,03,680/- towards loss of dependency and granted the same. This apart, the Tribunal has granted Rs.10,000/- each towards loss of estate and loss of consortium and Rs.2,000/- towards funeral expenses, thus, making a total compensation of Rs.4,25,680/-, but, however, rounded it off to Rs.4,25,700/-, by awarding interest at the rate of 7.5% per annum.

5. The appellants, having got dissatisfied with the aforesaid amount awarded by the Tribunal, approached this Court by preferring the present appeal contending that certain amounts mentioned against the heads in the tables shown in the grounds of appeal originally and in M.A.CMA.MP.No.889 of 2014 were neither awarded and what has been awarded is on lower side.

6. Learned counsel for the appellants would submit that the law declared by the Honourable Supreme Court in **Sarla Verma v. Delhi Transport Corporation**[2] and **Rajesh and others v. Rajbir Singh**

[1] 1987 (2) ALT 137
[2] (2009) 6 SCC 121

and others[3] be applied, in which case, the relevant multiplier factor would be '17' and that the Tribunal ought to have granted future prospects at 50% of the loss of dependency. Of course, the appellants also sought to grant a sum of Rs.1,00,000/- towards loss of consortium and Rs.25,000/- towards funeral expenses.

7. The Tribunal, somehow, resorted to multiplier factor mentioned in **Bhagwan Das's case (supra 1)**, which, ofcourse, would be relatively nearer to the multiplier factor provided in the table formulated by the Honourable Supreme Court in **Sarla Verma's case (supra 2).** So far as the earnings of the deceased are concerned, though, the learned counsel would seek to fix the same at Rs.5,000/- per month, but, there is no legally acceptable evidence forthcoming. Therefore, the monthly earnings fixed by the Tribunal at Rs.3,000/- or annual earnings at Rs.36,000/- cannot be disturbed. Since the dependants are four in number, 1/4th deduction towards personal living expenses of the deceased is permissible, as per the principle laid down by the Honourable Supreme Court in **Sarla Verma's case (supra 2)**, in which case, the contribution of the deceased to the family would work out to Rs.27,000/- per annum. When multiplier factor '17' is applied, the loss of dependency would work out to Rs.4,59,000/-. The appellants are entitled to 50% thereof towards future prospects, which works out to Rs.2,29,500/-, besides Rs.50,000/- towards conventional sum, as against the award of various

[3] (2013) 9 SCC 54

amounts under special damages mentioned in the above. Thus, the appellants are entitled to a total sum of Rs.7,38,500/- as against the compensation of Rs.4,25,700/- awarded by the Tribunal.

8. The rate of interest awarded at 7.5% per annum by the Tribunal is maintained on the enhanced amount also, since it is in tune with the rate of interest at 7.5% per annum awarded by the Honourable Supreme Court in **Rajesh's case (supra 3)**.

9. The enhanced amount shall be apportioned among the appellants – petitioners in the same proportion in which the original compensation amount was directed to be apportioned and disbursed by the Tribunal.

10. Accordingly, the appeal is allowed in part enhancing the compensation from Rs.4,25,700/- to Rs.7,38,500/- with interest at 7.5% per annum. Miscellaneous Petitions, if any, pending in this appeal, shall stand closed. There shall be no order as to costs.

A. SHANKAR NARAYANA, J

September 21, 2016.
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