

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.3171 OF 2005

JUDGMENT:

Having got dissatisfied with the award of Rs.1,85,000/- as compensation by the order dated 29.08.2005 in O.P. No.82 of 2004 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, Medak at Sangareddy (for short, 'the Tribunal') as against the claim of Rs.3,50,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'), for the death of one Ramulu who was the son of appellant No.1 and elder brother of appellant Nos.2 to 5, in a road accident, the instant appeal is preferred under Section 173 of the Act seeking enhancement of compensation.

2. The appellants herein are the petitioners, while respondent Nos.1 and 2 herein, who are the owner and insurer of lorry bearing registration No.AP 09X 2903, respectively, are respondent Nos.1 and 2, respectively, 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 in brief are that on 12.12.2003, one Ramulu (deceased) was driving a jeep bearing

registration No.AP 9X 1476 from Yellareddy towards Pitlam and when he reached near Narsingraopally cross roads, near Pitlam on Nanded to Hyderabad road, a lorry bearing registration No.AP 9X 2903 driven in a rash and negligent manner at high speed dashed the jeep, due to which, the deceased received injuries and two others also received injuries, but he succumbed to injuries.

Petitioners, claiming that the deceased was driver earning Rs.4,000/- per month and they were all dependents on him, sought a sum of Rs.3,50,000/- as compensation from respondent Nos.1 and 2, who are owner and insurer of the accident vehicle, respectively.

5. Respondent No.1-owner of the lorry remained *ex parte* before the Tribunal. Respondent No.2-insurer of the lorry opposed the claim raising various pleas and also stating that the compensation sought for by the petitioners is highly excessive and exorbitant and, therefore, sought to dismiss the claim petition.

6. Basing on the said pleadings, the Tribunal framed three issues about the responsibility for the accident. During enquiry, petitioner No.1 examined herself as P.W.1 besides examining eyewitness as P.W.2 and marked Exs.A.1 to A.7 to substantiate their claim; whereas, on behalf of respondent No.2, no witnesses were examined, but a copy of insurance policy was marked as Ex.B.1 on consent.

7. The Tribunal having dealt elaborately the evidence of P.W.2-eyewitness and documentary evidence Exs.A.1 to A.5, more particularly, Ex.A.5-Motor Vehicles Inspector's report, recorded finding that due to rash and negligent driving of the driver of lorry, the accident had occurred. On issue No.2, the Tribunal, taking the age of deceased as 25 years basing on Ex.A.3-postmortem examination report, though, the licence of the deceased was marked as Ex.A.7, which shows the date of birth as 08.07.1981 indicating that he was 23 years old on the date of accident, taken monthly income at Rs.1,500/-, deducted 1/3rd therefrom and the remainder towards contribution, and applied multiplier '15' and, thus, arrived loss of dependency at Rs.1,80,000/-. Besides the same, a sum of Rs.5,000/- was granted towards loss of estate and, thus, a total sum of Rs.1,85,000/- was granted with interest at 7.5% per annum thereon.

8. It is the aforesaid order which is under challenge in the instant appeal contending in the grounds that the compensation granted by the Tribunal was on lower side and the Tribunal has not appreciated the evidence on record and, in fact, the deceased was jeep driver and electrical contractor earning Rs.4,000/- per month and the Tribunal has taken Rs.1,000/- as the earnings and that the petitioners were all dependents and, therefore, sought to grant the balance amount.

9. Heard Sri P.Sriharinadh, learned counsel for the appellants-petitioners, and Sri Naresh Birapaneni, learned Standing Counsel for respondent No.2-Insurance Company. Appeal was dismissed against respondent No.1-owner for default by the order dated 06.01.2012. However, dismissal of the appeal for default against respondent No.1-owner of the vehicle is of no consequence to decide the quantum of compensation, in view of the decision of a Division Bench of this Court in **Meka Chakra Rao v. Yelubandi Babu Rao @ Reddemma and others**^[1].

10. Perused the order under challenge and the evidence on record, both, oral and documentary, let in by the petitioners. Turning to the determination of compensation, the Tribunal, somehow, fixed monthly income of the deceased at Rs.1,500/-, but even considering him as a private driver driving light motor vehicle as seen from Ex.A.7 during relevant period as per Minimum Wages Act, 1948, he would be getting Rs.1,994/- including VDA, the same is rounded off to Rs.2,000/- and the said amount is fixed as the monthly income. Since the deceased died in unmarried status, 50% of the income has to be deducted towards his personal expenses and the remaining 50% towards contribution to the family. Thus, the contribution to the family works out to Rs.12,000/- per annum. The Tribunal

has taken multiplier factor basing on the age of petitioner No.1, but in view of the decision of the Hon'ble Supreme Court in **Munna Lal Jain and another v. Vipin Kumar Sharma and others**^[2], the age of deceased is criteria to consider relevant multiplier and since the deceased was aged 25 years and relevant multiplier is '18' in view of the decision of the Hon'ble Supreme Court in **Sarla Verma & others Vs. Delhi Transport Corporation and another**^[3], when '18' applied, loss of dependency works out to Rs.2,16,000/-. However, towards future prospects, the petitioners are entitled to 50% additionally in view of the decision of Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**^[4] and **Munna Lal Jain's** case (supra 2). It works out to Rs.1,08,000/-. Thus, loss of dependency is arrived at Rs.3,24,000/-. Besides the same, a sum of Rs.5,000/- is granted towards funeral expenses and Rs.5,000/- is granted towards transport charges and the amount of Rs.5,000/- granted by the Tribunal towards loss of estate is enhanced to Rs.15,000/- .

11. Thus, the petitioners are entitled to a total sum of Rs.3,49,000/- (Rupees three lakh and forty nine thousand) as against Rs.1,85,000/- granted by the Tribunal towards compensation and the same is accordingly granted. 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 from the date of petition till realization in view of the decision of the Hon'ble Supreme Court in **Rajesh's** case (supra 4).

12. Accordingly, the instant appeal is allowed in part 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.

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

A. SHANKAR NARAYANA, J

11th March, 2016

siva

[\[1\]](#) 2001(1) ALT 495 (D.B.)

[\[2\]](#) (2015) 6 SCC 347

[\[3\]](#) (2009) 6 SCC 121

[\[4\]](#) 2013 ACJ 1403