

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.61 OF 2010

JUDGMENT:

Having got dissatisfied with the award of Rs.2,10,000/- as compensation by the order dated 24.08.2009 in O.P. No.390 of 2006 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-III Additional Chief Judge, City Civil Court, Hyderabad (for short, 'the Tribunal') as against the claim of Rs.3,00,000/- laid under Sections 163-A and 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') read with the Rules framed thereunder, for the death of mother of the appellant-petitioner in a road accident, the instant appeal is preferred under Section 173 of the Act seeking enhancement of compensation.

2. Appellant herein, who are the daughter of the deceased, is the sole-petitioner, while respondent Nos.1 and 2 herein, who are the owner and insurer of the accident vehicle, i.e., auto-rickshaw bearing registration No.AP 11U 9867, 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. Heard Sri Kasireddy Jagathpal Reddy, learned counsel for the appellant-petitioner, and Sri C.Buchi Reddy, learned Standing Counsel for respondent No.2. Non-compliance of service on

respondent No.1-owner is of no consequence, as he remained *ex parte* before the Tribunal and suffers decree.

5. The only submission made by the learned counsel for the appellant-petitioner is that the multiplier applied by the Tribunal basing on the decision of this Court in **Bhagwandas v. Mohd. Arif**¹ be revised in view of the law declared by the Hon'ble Supreme Court in **Sarla Verma & others v. Delhi Transport Corporation and another**², where the multiplier factor has been revised and the multiplier '13' has to be applied as against 8.78 applied by the Tribunal. Whereas, learned Standing Counsel for respondent No.2 would not, of course, oppose as the submissions are based on the law declared by the Hon'ble Supreme Court.

6. Therefore, when multiplier 13 is applied to the multiplicand Rs.24,000/-, which was arrived at having given deduction of 1/3rd towards personal living expenses of the deceased by fixing monthly income as Rs.3,000/-, the loss of dependency works out to Rs.3,12,000/-. Besides the same, the petitioner is also entitled to Rs.5,000/- towards funeral expenses and Rs.15,000/- towards loss of estate.

7. Petitioner laid the claim for Rs.3,00,000/- only, but, certainly, she cannot be deprived of Rs.3,32,000/-, though, it exceeds the claim made by her, in view of the decisions of the Hon'ble Apex

¹ AIR 1988 AP 99

² (2009) 6 SCC 121

Court in **Nagappa v. Gurudayal Singh and others³**, **Sri Laxman @ Laxman Mourya v. Divisional Manager, Oriental Insurance Company Limited⁴** and **Rajesh and others v. Rajbir Singh and others⁵**, 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.

8. Thus, the petitioner is entitled to a total sum of Rs.3,32,000/- (Rupees three lakhs and thirty three thousand) as against Rs.2,10,000/- granted by the Tribunal towards compensation and the same is accordingly granted. However, the petitioner is directed to pay Court fee on the excess amount granted by this Court than the claim within a period of three months from today.

9. 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 enhanced compensation amount also in view of the decision of the Hon'ble Supreme Court in **Rajesh's** case (supra 5).

10. Accordingly, the instant appeal is allowed modifying the order passed by the Tribunal, by enhancing the compensation, as indicated above, and by upholding the direction as regards pay and recovery given by the Tribunal and confirming the same in all other respects. There shall be no order as to costs.

³ AIR 2003 SC 674

⁴ 2012 ACJ 191 (SC)

⁵ 2013 ACJ 1403

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

A. SHANKAR NARAYANA, J

28th September, 2016

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