

HON'BLE SMT JUSTICE ANIS

M.A.C.M.A.No.3036 OF 2005

J U D G M E N T:

This appeal is filed by the appellants/petitioners under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), aggrieved by the order and decree dated 02.06.2005, passed by the Chairman, Motor Accident Claims Tribunal-cum-District Judge, Nizamabad, in O.P.No.559 of 2002, awarding compensation of Rs.62,500/-.

2. The appellant Nos.1 & 2/petitioners filed the above Original Petition under Section 166 of the Act claiming compensation of Rs.5,00,000/- on account of the death of one Dasari Gangu Bai (hereinafter referred to as 'the deceased') in a motor vehicle accident that occurred on 12.04.2002.

3. For the sake of convenience, the parties hereinafter will be referred to as they are arrayed in the Original Petition.

4. The brief averments made in the petition are that on 12.04.2002 the deceased was standing on the side of the road near Shalimar Hotel, Nizamabad, on Bodhan to Nizamabad road. At about 09:45 p.m, one lorry bearing No.ATJ.878 driven by its driver at high speed and in rash and negligent manner dashed the deceased due to which the deceased fell down and front wheel of the lorry ran over the deceased as a result, she died on the spot due to crush injuries. Prior to the accident deceased was aged about 50 years, working as labourer and earning Rs.10,000/- p.m. and contributing her earnings to the petitioners. Due to sudden death of the deceased, petitioners lost their mother and they suffered irreparable loss and hardship and to grant Rs.5,00,000/- as compensation.

5. Before the Tribunal, respondent No.1 remained *ex parte*.

6. The brief averments made in the written statement filed by the second respondent are as follows:

The respondent put the petitioners to prove the manner of accident, age and income of the deceased and specifically stated that the compensation claimed by the petitioners is high and excessive and prayed the Court to dismiss the petition.

7. Basing on the above pleadings, the Tribunal framed three issues and to substantiate the claim the petitioners got examined PWs.1 to 3 and got marked Exs.A.1 to A.5 on their behalf. On behalf of the contesting respondents, no oral evidence was adduced but got marked Ex.B1.

8. After considering the oral and documentary evidence, the Tribunal held that the accident occurred due to rash and negligent driving of the driver of the lorry bearing No.ATJ.878, due to which the deceased died and awarded compensation of Rs.62,500/- along with interest at 9% p.a.

9. Being not satisfied by the compensation awarded by the Tribunal, the petitioners preferred the present appeal.

10. The learned counsel appearing for the appellants/petitioners argued that in view of the judgment reported in ***Sarla Verma and others Vs. Delhi Transport Corporation and another***^[1], the relevant multiplier is '9' and it has to be multiplied with the monthly income to come to the conclusion for the loss of dependency. It is also argued that the Tribunal awarded Rs.2,500/- towards funeral expenses, which is a meagre amount and therefore prayed the Court to grant Rs.5,000/- towards that head and enhance the compensation by granting compensation under other heads.

11. On the other hand, the learned counsel for the Insurance

Company argued that in view of Sarla Verma's judgment, the relevant multiplier for the age group is '9'. Therefore, the multiplier '9' will be applied and finally argued that the compensation awarded by the Tribunal is just and reasonable and needs no interference and prayed the Court to dismiss the appeal.

12. Having regard to the submissions made by the learned counsel appearing for both the parties, the points which are to be decided in this appeal are as follows:

1. Whether the compensation awarded by the Tribunal is just and reasonable?
2. Whether the appellants/petitioners are entitled for enhancement of compensation as prayed for?

13. **POINTS:** A perusal of the oral and documentary evidence shows that there is no dispute that the accident occurred due to rash and negligent driving of the driver of the lorry bearing No.ATJ.878 and the finding of the Tribunal needs no interference.

14. Coming to the quantum of compensation is concerned, it is no doubt that the deceased was aged about 60 years at the time of accident and petitioners are the major sons of the deceased. The petitioners no doubt entitled for compensation under the head of loss of love and affection. The Tribunal rightly taken Rs.1,500/- p.m as income of the deceased and after deducting $\frac{1}{3}$ rd took the net contribution as Rs.1,000/- p.m i.e., Rs.12,000/- p.a. Therefore, if the multiplier '9' is multiplied the net contribution comes to Rs.1,08,000/- . It is no doubt that the Tribunal awarded funeral expenses as Rs.2,500/-. The learned counsel for the appellants contended that the Tribunal awarded meagre compensation towards funeral expenses and prayed the Court to enhance the compensation. Considering the facts and circumstances of the case, I am of the view that the appellants are entitled for Rs.5,000/- towards funeral expenses.

Thus, the petitioners are entitled for Rs.1,13,000/- (Rs.1,08,000/- + Rs.5,000/-) as compensation.

15. Accordingly, the appeal is partly allowed enhancing the compensation awarded by the Tribunal from Rs.62,500/- to Rs.1,13,000/- along with interest at 7.5% p.a on the enhanced amount from the date of appeal till the date of realisation. No order as to costs.

16. Miscellaneous Petitions, if any, pending in this appeal shall stand closed.

ANIS, J

Date: 29.01.2016
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[\[1\]](#) (2009) 6 SCC 121