

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.2394 OF 2009

JUDGMENT:

Seeking enhancement of compensation, the present Civil Miscellaneous Appeal under Section 173 of the Motor Vehicles Act, 1988 (for short the Act) is preferred by the parents of one Basvi Chennappa, who died in the road accident in the instant case, having dissatisfied with the compensation of Rs.75,000/- awarded by the learned Chairman, Motor Accidents Claims Tribunal - cum - I Additional District Judge, Mahabubnagar, through the order and decree, dated 12.03.2009, in O.P. No.437 of 2007, as against their claim of Rs.5,00,000/- laid by them under Section 166 of the Act.

2. The appellants, who are parents of Basvi Chennappa, are petitioners in the O.P. before the Tribunal, while respondent Nos.1 and 2, who are owner and insurer, respectively, of the Jeep bearing No.AP-15-W-6171 that involved in the accident, are respondent Nos.1 and 2, respectively.

3. For the sake of convenience, the parties are hereinafter referred to as arrayed in the O.P. before the Tribunal.

4(a). The facts, in brief, are that Basvi Chennappa, who was 20 years old, was studying first year degree course in S.V.M. College, on the date of accident. According to the petitioners, on 30.03.2006, the deceased boarded a Jeep bearing No.AP-15-W-6171 to go to his

village and when the Jeep crossed Chintharevula village and negotiating Y. Junction curve near the fields of Mudireddy, since its driver lost control over the vehicle, it ran towards left side of the road and fell into a ditch resulting in the said Chennappa sustaining head injury. He was shifted to Kurnool Hospital for treatment, where he succumbed to injuries on 05.04.2006, while undergoing treatment.

(b). The petitioners claim that the deceased was a brilliant student and was first in rank at all times and could have come up in the life with bright future, sought Rs.5,00,000/- as compensation from respondent Nos.1 and 2, who are owner and insurer, respectively, of the Jeep.

5. Before the Tribunal, respondent No.1, owner of the Jeep that involved in the accident, remained *ex parte*.

6. Respondent No.2, insurer of the Jeep, opposed the claim by filing a counter requiring the petitioners to prove the allegations mentioned in the claim petition.

7. The Tribunal having framed three (3) issues, examined PWs.1 and 2 and marked Exs.A-1 to A-6 on behalf of the petitioners; on behalf of the insurer, RWs.1 and 2 were examined, but no documents were marked.

8. RW.2 is no other than respondent No.1, owner of the Jeep.

9. The Tribunal, having recorded a finding on issue No.1 in favour of the petitioners; on issue No.2, taken notional income of the deceased at Rs.15,000/- per annum, deducted $1/3^{\text{rd}}$ i.e., Rs.5,000/- (Rs.15,000/- x $1/3$) therefrom towards personal expenses of the deceased, and, on some guess work contribution of the deceased to his parents taken at Rs.5,000/- per annum, applied multiplier '13' and arrived at Rs.65,000/- towards loss of dependency. The Tribunal has also granted Rs.5,000/- towards loss of estate and Rs.5,000/- towards funeral expenses and, thus, granted a total amount of Rs.75,000/- towards compensation apportioning the same between the petitioners at Rs.25,000/- and Rs.50,000/-, respectively, with interest at 7.5% per annum and the same is under challenge in the instant appeal by the petitioners.

10. Heard Sri M. Achutha Reddy, learned counsel for the petitioners (appellants), and Smt. S.A.V. Ratnam, learned counsel for the insurer (respondent No.2).

11. Despite service of notice on respondent No.1, owner of the Jeep that involved in the accident, none appears for him.

12. Perused the order and decree under challenge and the evidence on record.

13. The inquest report, certified copy of which is marked as Ex.A-2, of the deceased would show that he was a student, as such, it cannot be disbelieved that he was prosecuting first year degree course

at the time of accident; in which case, earnings of the deceased taken by the Tribunal at Rs.15,000/- per annum appears to be not reasonable. It is no doubt true that the deceased was not pursuing any professional course, but, however, his prosecuting degree course cannot be sidelined. Keeping the said factor in view, the earnings of the deceased can be put around Rs.2,500/- per month or Rs.30,000/- per annum. Since the deceased was unmarried, 50% thereof i.e., Rs.15,000/- (Rs.30,000/- x ½) has to be deducted towards his personal expenses, in which case, his contribution to the family can be arrived at Rs.15,000/- (Rs.30,000/- - Rs.15,000/-) per annum. The relevant multiplier for the age group of the deceased, who was 20 years old at the relevant time, is '18' in view of the decision of the Hon'ble Supreme Court in **Sarla Verma v. Delhi Transport Corporation**¹ and when the same is applied, it works out to Rs.2,70,000/- (Rs.15,000/- x 18). Besides the same, the amount of Rs.5,000/- each granted by the Tribunal towards loss of estate and funeral expenses is maintained and added to the loss of dependency worked out.

14. Thus, the petitioners are entitled to a total compensation of Rs.2,80,000/- (Rupees two lakhs eighty thousand only) as against Rs.75,000/- awarded by the Tribunal, and the same is accordingly awarded, while maintaining the rate of interest at 7.5% per annum, granted by the Tribunal, on the entire compensation, which includes enhanced compensation, in view of the decision of the Hon'ble

1. (2009) 6 SCC 121

Supreme Court in **Rajesh and others v. Rajbir Singh and others**², from the date of petition till realisation. The enhanced compensation shall be apportioned between the petitioners as directed by the Tribunal.

15. Accordingly, the Civil Miscellaneous Appeal is allowed in part modifying the order under challenge and enhancing the compensation, as indicated above. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in the appeal stand disposed of.

October 26, 2016.

PV

A. SHANKAR NARAYANA, J

² 2013ACJ1403 = 2013(4)ALT35

